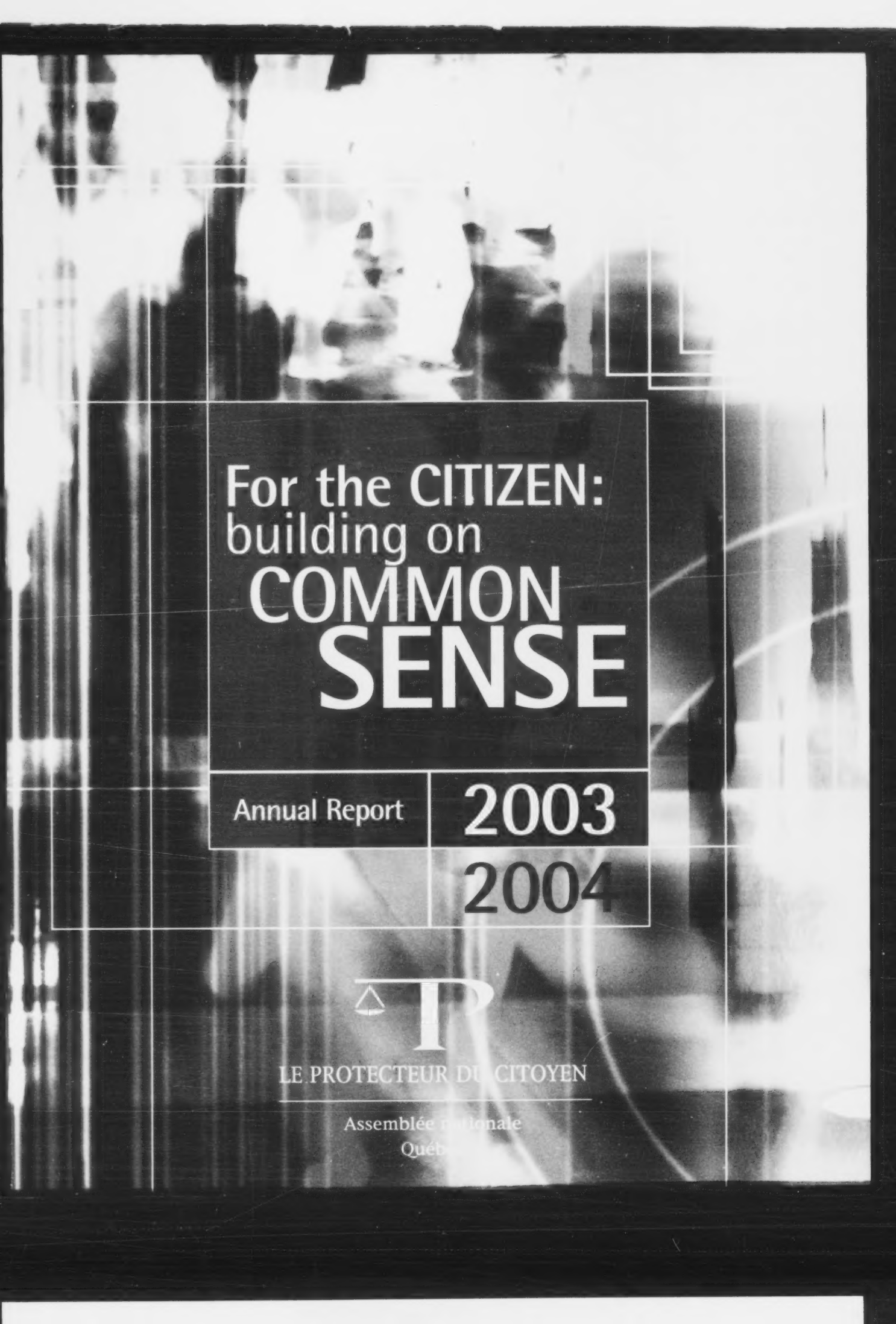

For the CITIZEN: building on COMMON SENSE

Annual Report 2003 2004

LE PROTECTEUR DU CITOYEN

Assemblée nationale
Québec

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The term "Protecteur du citoyen" refers to the activities of the institutions as a whole, while "Protectrice du citoyen" refers to a personal intervention of the incumbent.

The masculine form is used in this text to designate both men and women.

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LE PROTECTEUR DU CITOYEN

Assemblée nationale
Québec

Québec, June 2004

Mr. Michel Bissonnet
President
Québec National Assembly
Parliament Building
Québec (Québec) G1A 1A4

Dear Mr. Bissonnet,

I am honoured to table before the National Assembly the Protecteur du citoyen's 34th Annual Report for the period of April 1, 2003 to March 31, 2004, entitled "For the citizen: building on common sense".

In view of the cases that have been brought to my attention, I would like to bring to light some restrictive interpretations or practices which are unreasonable, if not on occasion contrary to the legislator's intent, and which result in inequities for citizens or their unfair treatment. In some cases, they simply offend common sense.

I would like to remind readers the principles of flexibility and openness that I had first discussed in my report for 2001-2002, which the Administration must exercise in all relations with citizens.

Yours sincerely,

The Protectrice du citoyen,

Pauline Champoux-Lesage

LE PROTECTEUR DU CITOYEN

Assemblée nationale
Québec

The current logo of the Protecteur du citoyen is a variation on the classic scales of justice, which symbolize the search for balance between competing rights. Normally, the scales represent justice as rendered by the courts and administrative tribunals.

The Protecteur du citoyen's office is a nonjudicial conflict resolution mechanism that is generally more accessible than the courts. Not only must the Protecteur du citoyen's decisions comply with the law, they must also be equitable. Equity is the ultimate level of justice.

On one level, then, the logo symbolizes the desire for justice represented by one of the pans of the scale. At another, the "P" replacing the other pan symbolizes the Protecteur du citoyen, the French term for Ombudsman. The "P" also refers to the highest level (palier) of justice-equity. Equity means applying the law with a human face.

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THOUGHTS AND COMMENTS OF THE PROTECTRICE DU CITOYEN

For citizens: building on common sense

In last year's annual report "Going the extra mile", I stressed the importance of improving how services are provided to citizens with a personalized approach adapted to each citizen's situation, by giving complete and understandable information and by ensuring that every aspect of a case file was considered.

An analysis of the problems brought before me during the year has prompted me to focus on some all too common practices that seem either unlawful, unreasonable or simply contrary to common sense, hence the title of this report. These practices are resulting in restricting citizens' benefits or imposing on them unnecessarily stringent measures or conditions.

In some cases, the legislator's intent can be effectively ignored. One often forgets, for example, that in matters of social legislation or compensation, a broad and liberal interpretation is needed. I also observed a lack of flexibility regarding proof required to grant benefits or extend time limits. Here are some examples that support my statement.

It is normal to take the measures necessary to ensure that amounts owed to the State are duly reimbursed. However, given the very precarious financial situation of some citizens, it would be appropriate to show some flexibility in these particular situations. That is when the reasonableness or unreasonableness of a measure is fully demonstrated. This was not the case when the Ministère de l'Emploi, de la Solidarité sociale et de la Famille (MESSF) garnished the salary of a citizen because she had missed a few payments while she was staying at a shelter for victims of conjugal violence. It was also unreasonable to increase the monthly payment of a poor family three times over, who besides, had already paid back two-thirds of the debt in question.

It is also possible that in some cases and for exceptional reasons, a debt has to be reduced or even written off. There are provisions that grant government departments and agencies some flexibility in this regard. Therefore, the MESSF should not have any qualms in forgiving a debt, as important as it may be, when the debtors were psychologically very fragile and living in homeless shelters.

Similarly, the Commission de la santé et de la sécurité du travail (CSST) should have written off an amount owed by a citizen, after having assured her that she could keep the money she had received, no matter the outcome after her employer decided to challenge the decision.

Furthermore, I observed reticence by administrations to make use of these provisions. In one case involving the Ministère du Revenu, I had to intervene with the Ministère to make sure a citizen was reimbursed an amount in sales taxes that he had paid twice for the same purchase. One year later and after much correspon-

dence, the Administration finally settled the case satisfactorily. In the meantime, the Administration had proceeded to an in-depth analysis of the case, which provided it with another legal provision than the one permitting a refund to attain the objective sought.

I would like to remind the Administration of the saying "the legislator does not speak in vain". The discretionary power of reducing or erasing a debt must certainly be substantiated with the appropriate guidelines in order to avoid becoming high-handed. However, one must not refuse to exercise it for fear of creating a precedent, when common sense calls for it.

An unwillingness to compromise also manifests itself when comes the time to grant additional delays due to exceptional circumstances. This was the case of two farmers for whom the ministère de l'Agriculture, des Pêcheries et de l'Alimentation (MAPAQ) refused to consider the application for tax refunds because they were submitted late. They had, however, given very valid reasons for the delay. The Ministère du Revenu also refused to grant any grace period to a citizen for a payment for which the citizen had already presented evidence of a case of mistaken identify and that he did not owe the amount claimed.

Finally, I observed that sometimes benefits granted by law are restricted by Administration policies or that requirements are applied that exceed the legislator's intent.

For example, one of the CSST's internal policies denied retired workers the right to income replacement benefits, contrary to the interpretation of the law made by Administrative Tribunal. The Société d'assurance automobile du Québec (SAAQ) also refused to pay similar benefits to self-employed workers, which is also in contradiction to legislative provisions.

Finally, in terms of unreasonable requirements, there are cases of citizens, who had already submitted to a first evaluation following alcohol problems, on whom the relevant agency wanted to impose a second such evaluation because they were late in requesting to have their driver's licence reinstated. I was also surprised to hear of the pugnacity of the ministère de l'Education towards a citizen who was told to obtain a document that was extremely difficult to obtain, while she had already provided ample proof of eligibility for her child to be allowed to attend an English school.

Should these cases be deemed to hint at what can be called a "strong tendency"? One thing is certain, such cases cross my desk year after year. They illustrate the nit-picking and sometimes restrictive attitudes that prevail contrary to the legislator's intent, and conflict with an administration that should be focused on justice, fairness and service to citizens. More often than not, they also go against common sense.

Transparency

Last year, I listed governmental transparency as one of my concerns to ensure the respect of citizens' democratic rights. I pointed out that one element of transparency was "respecting a citizen's right to know the intentions of their leaders regarding particular issues and to be heard by them on the subject.". Some events that occurred during the year have prompted me to make some additional comments on this aspect of the issue of governmental transparency.

The right of citizens to voice their opinion on matters of public interest is acknowledged. It is one aspect of democratic freedom that also greatly promotes informed decision-making.

Different mechanisms have been created in order that the right to be heard can be better exercised. For that purpose, the legislator provided in the Regulations Act delays prior to their adoption so that interested parties can voice their opinion, suggestions or concerns to the government.

As for the Environment Quality Act, it includes the obligation to hold public hearings before the Bureau des audiences publiques sur l'environnement (BAPE) at the request of citizens, groups or municipalities, in cases when projects may have a possible impact on the environment, following which, the government agency must produce a project evaluation report.

The operations of the parliamentary commissions, where individuals or groups are invited to voice their opinions to the members of the National Assembly on laws and public policies, must reflect the same care to give them the time to effectively express themselves.

The Protecteur du citoyen has exposed several times the excessive use of the notion of emergency in order to bypass the requirements of the Regulations Act with regards to the prepublication of regulations and its consequence of having to hear citizens' comments. The government can also invoke the same notion of urgency to avoid BAPE evaluation projects.

Other means have also been used to speed up the consultation process if not dismiss it altogether. For example, one can think the decreasing time spans dedicated to this parliamentary commission exercise, sometimes very short delay given to citizens or groups to prepare their interventions or the choice of a period in the year that is not suitable for such work. Sometimes these means are even used simultaneously.

I do not wish to engage myself in analysing specific cases at this point. I would however like to point out some inherent dangers in adopting these practices, the first of which is obviously compromising a recognised democratic freedom. I am also of the opinion that the recurrence of these methods undermines the confidence of the public towards institutions and increases cynicism towards political leaders. Moreover, mixed results are often the rule in terms of any gain in speed our time: the debate ends up before the court or in the street and can therefore takes as much time, if not more, than the regular process would have.

This is simply a case of respecting the rules implemented by the elected officials themselves and that urgent cases, which are exceptional by definition, remain exceptions.

The problems I have just mentioned are even more serious when they affect the work of those who have been ultimately appointed by citizens to look at matters of public policy, i.e. the members of the National Assembly. The Protecteur du citoyen has already pointed out the fact that it is dangerous to present bills that have been drafted in very general terms, which the bulk of contents and provisions will be the subject of future regulations, thereby avoiding the scrutiny. If we add to that the notion of emergency to avoid pre-publication requirements, one can easily note that the necessary substantive debates may turn out to be very short indeed, if they occur at all.

It is this notion of urgency, which is not defined anywhere in the National Assembly's rules of procedure, that we often refer to in order to shut down the debate on elected officials, collectively known as the "gag". In 2003, before the Christmas break, no less than eight bills were adopted during debates that lasted less than 20 hours. I am aware that the game of the parliamentary institutions is such that the opposition will "use all means at their disposal in accordance with the rules of procedure to delay the adoption of a bill"[1] and that "in this context, the government sometimes resorts to the notion of suspension of the rules of procedure to adopt one or several bills"[2].

1. Liberal translation. Reference: La procédure parlementaire au Québec, 2nd edition, National Assembly, 2003, p. 351.

2. Ibid.

In English-speaking countries, this obstruction phenomenon is known as "filibuster" and contributes to suspend normal rules of procedure.

These measures must be applied with restraint, otherwise, we run the risk of stifling the democratic debate. Following some cases of abuse (e.g. in 1992, twenty-eight bills were adopted in half a day), the National Assembly has adopted temporary gag-related regulations in 2001. Aside from acknowledging that the suspension of the rules of procedure were to be considered an exceptional measure, it limited its use to a single matter at a time and it established the duration of the parliamentary debate for each bill at twelve hours.

These new limits were disregarded in the fall of 2003, which prompts me to fear the return of the excesses of yesteryear. I would not attempt to express an opinion on the content of pending regulations, as it is the legislator's task. However, I do feel it essential, for all the reasons I have mentioned above, that such limits are determined. A rightful balance must be established between the absolute necessity of a debate that can go "to the heart of the matter" and the legitimate desire to avoid paralyzing parliamentary work. I am convinced that not only the quality of our democracy is at stake, but also the confidence of the public in the institutions. There also common sense should be used in the best interest of citizens.

During the past few months, the government announced important policy changes aimed at modernizing the State. The administrative structures as well as existing programs and their management will apparently undergo major changes. Most citizens' concern regarding this upheaval, which are still vague at present, is tangible. The respect for the democracy and the concern for social stability require, now more than ever, that the government be transparent in its actions.

THE PROTECTEUR DU CITOYEN'S MISSION

The Protecteur du citoyen has been entrusted by Law the function of "watchdog" of Quebec's administrative authorities. It will intervene whenever has reason to believe that a person or a group of people has or could be adversely affected. It is responsible for receiving complaints concerning administrative authorities. If necessary, it intervenes with government departments and agencies to rectify a prejudicial situation and ensure that the situation will not reoccur. With the goal of preventing injury, the Protecteur du citoyen issues recommendations aimed at eliminating sources of potential problems and consequently ensures the protection of the rights of citizenry and corrects dysfunctions in the public administration, thereby contributing to strengthening democracy and the constitutional state.

3

SOME PROTECTEUR DU CITOYEN'S INTERVENTIONS IN 2003-2004

The cases described in this report were selected to demonstrate the wide variety of cases investigated by the Québec Ombudsman and the impact of its interventions.

MINISTRIES

3.1

THE MINISTÈRE DE L'AGRICULTURE, DES PÊCHERIES ET DE L'ALIMENTATION

3.1.1

Some flexibility, please

Sometimes the Ministère displays a lack of flexibility.

Among the files that have been processed, three in particular have attracted the attention of the Protecteur du citoyen. Two of them illustrate the lack of flexibility that seems to occur too often in many Ministères and government agencies and which ultimately causes prejudice to citizens.

It refuses to reconsider the requests for tax refunds that have been made too late, in spite of credible arguments.

Two farmers were late with their requests for tax refunds from the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (MAPAQ). They both had submitted detailed accounts of the reasons for their delay. The first had suffered from an illness which had incapacitated him. Secondly, he was the victim of negligence on the part of his accountant who had belatedly registered his company anew. The second farmer had had to watch his daughter die after a prolonged illness. The man was profoundly disturbed in the wake of this event which caused him to forget the deadline for submission. Despite their explanations, the Ministère categorically refused the requests of these two farmers who then turned to the Protecteur du citoyen for help.

Questioned on this issue, the Administration argued that the rule stipulated that a company must be registered at the time of a request for tax refund is submitted, this being a "peremptory" delay, which means that application is binding in all cases. It was further argued that it was not their policy to examine the soundness of arguments that citizens bring forward in such cases.

The Administration should acquire the principles of the Act respecting administrative justice. The requests will be examined. The Ministère will review its practices.

The Protecteur du citoyen disagreed. He pointed out to the Ministère that the Act respecting administrative justice allows the Tribunal administratif du Québec (TAQ) to extend the time limits imposed on a citizen to take action when "serious valid reasons" exist. The TAQ's caselaw further establishes that a citizen's illness or the negligence on the part of an agent were such admissible arguments.

The Protecteur du citoyen therefore felt that these arguments should also be acknowledged as valid by the Ministères and governmental agencies.

The MAPAQ concurred with the Protecteur du citoyen. The persons in question received $15,000 and $1,500 respectively in tax refunds. Furthermore, the Ministère stated that it would give serious thought to reviewing its decision-making process in depth.

Only the first statement counts, despite a promise to the contrary.

The second situation involves a maple-sugar producer who suffered a great deal of damage from the strong winds in 1999, as did many others, such as apple farmers. In the spring of 2000, the MAPAQ invited these producers to submit a "voluntary statement" regarding the damages sustained. It was specified that said statement would not affect in any way any future request for compensation. With the help of a forest engineer, the producer estimated the number of tap holes that were lost and submitted this statement.

The Ministère had to keep its word. It agreed with the Protecteur du citoyen's opinion.

In July 2001, the Ministère set up an assistance program. After another analysis conducted by an agriculturist and a forest technician, the producer then estimated having lost another 1900 tap holes in addition to the original figure, a modification valued at another $14,000. He submitted his request for assistance in August. The Ministère rejected this second request, claiming to accept only initial estimates. The gentleman turned to the Protecteur du citoyen.

The Protecteur noted that the maple-sugar producer had thoroughly justified, as was required, the modifications made to his voluntary statement. For this purpose, he had called upon a new team of experts. However, the program that had been established granted compensation based on the losses estimated in the first statement only, which was why the gentleman was refused his second request.

By acting in this manner, the Ministère reneged on its promise made months earlier. The citizen was being penalized because of "a voluntary statement". If he had not submitted it, only the second estimate would have been noted. Based on these arguments, the Protecteur du citoyen asked the Administration to reconsider its decision. The latter agreed and the citizen's request was finally accepted.

The right to be heard is a fundamental rule of justice.

The last case describes a situation where a fundamental rule of justice was quashed; specifically, the right of a citizen to be heard before the Court when he is an interested party in a claim.

The Ministère had ordered the confiscation of barrels of maple syrup which were suspected of being unsuitable for consumption. The barrels were analyzed by a private company mandated by the Ministère for that purpose. Based on the results of the analysis, the Administration concluded that the syrup had to be destroyed. The Administration asked the Court for an order requiring the company to destroy the syrup. The Court complied. As for the gentleman, he still wanted to reclaim his property and he called upon the Protecteur du citoyen for help.

It goes without saying that the latter could not possibly question the Court's decision. Nevertheless, he noted what appeared to be a serious irregularity: the owner of the confiscated syrup was never in the Ministère's petition to the Court. He was therefore unable to make his case. The Administration explained that the inquiry was directed at the company, mandated to analyze the syrup since, as it was the last one in possession of the syrup. The lack of argument failed to convince the Protecteur du citoyen. The interests of the owner in this case were apparent. Therefore, he was technically entitled to be heard.

The Protecteur du citoyen moved that in the future an owner who is no longer in possession of his property always be named as a respondent in such proceedings, thereby giving him the opportunity to intervene if he deems it appropriate, as he would have been sewed accordingly. In the end, the Ministère complied with this recommendation.

3.1.2

THE MINISTÈRE DES AFFAIRES MUNICIPALES, DU SPORT ET DU LOISIR

A problem requiring a comprehensive approach

The overall analysis of a problem is often necessary.

Legislative provisions and regulations originating from different departments and government agencies can, when combined or overlapped lead to an overall problem for citizens. This problem then becomes an entity where the "whole is greater than the sum of its parts". Such an issue must be examined from a global perspective, and all stakeholders must stop looking for strictly departmental solutions and consult each other in order to address every aspect of the issue.

A group of citizens reports the consequences of rules emanating from three governmental agencies.

That was the sit· ·tion of an association of trailer park owners who appealed to the Protecteur du citoyen. They reported a situation implicating two Ministères and one agency; namely, the Ministère des Affaires municipales, du Sport et du Loisir (MAMSL), the Ministère de l'Environnement (MENV), as well as the Régie du logement. The association had contacted each of the above without success.

The association contended that municipal tax laws did not reflect the reality of trailer parks. The same could be said of scales used by the Régie du logement regarding rent paid by residents for the land. These scales presumably did not recognize certain significant expenses incurred by park owners. Finally, the implementation of new environmental standards did result in significant additional expenses to be incurred by the owners to ensure the quality of drinking water. Contrary to municipalities, they were not entitled to any subsidies to help them to adjust to the new regulation.

Consultation was necessary.

At the outset, the Protecteur du citoyen felt that it would be premature to make recommendations on these issues without further analysis. Indeed, the inquiry revealed that, to a large extent, these issues were all interrelated. Yet the various governmental bodies contacted by the association had only examined those under their jurisdiction. Each one's decision was rendered individually and did not benefit from any comprehensive analysis of the issues raised.

The Protecteur du citoyen suggested a multisectorial working committee, which was created under the auspices of the MAMSL.

The lack of communication between the authorities involved explains this shortfall. To remedy the situation, the Protecteur du citoyen suggested that a multisectorial working committee be created under the auspices of the MAMSL, in which the association could take part, since it was well aware of the problems that their members were faced with.

The Ministère welcomed the Protecteur du citoyen's suggestion and said committee was thereby established.

THE MINISTÈRE DE L'ÉDUCATION

Student Financial Assistance Program

Significant improvements

Repayment terms were adapted with convincing results.

After several interventions from the Protecteur du citoyen, the Ministère accepted three years ago to ease the regulations obliging citizens to repay at least half of the student loans owed to the Ministère before further financial assistance could be granted. This rule stemmed from a legal provision whereby any person who had not reimbursed previous loans was not entitled to further loans, unless an agreement had been reached with the Administration for the repayment of said loans.

The Protecteur du citoyen had in fact noted that several citizens were incapable of meeting this requirement, effectively eliminating any chance of going back to school. Today, the Protecteur is very pleased to announce that adjustments implemented have significantly enhanced these students' chances of going back to school.

The Administration acknowledges its responsibility with regards to errors made in good faith by school employees acting as its representatives.

Over the years, the Protecteur du citoyen has handled many cases where mistakes and omissions were made by employees in educational institutions whose job it was to inform, help and sometimes support students in their dealings with the Ministère. These errors and omissions sometimes resulted as serious prejudice for the students affected by them. The Ministère did not accept any responsibility in this matter, arguing that the employees were not public servants.

The Protecteur du citoyen disagreed as he believed that, like social benefit officers employed by the City of Montreal, these persons had acted on behalf of the Ministère. Furthermore, it was the Ministère that defined the terms of this cooperation with the educational institutions as part of a protocol in effect since 1990.

In addition, the Protecteur du citoyen has drawn the attention of the Ministère to several cases, urging it to acknowledge its responsibility in the matter, as well as to take the necessary measures to ensure that people acting on its behalf were kept up to date in terms of their knowledge of the system. He also suggested that the responsibilities held by these persons be specified in greater detail.

The Administration followed the recommendations of the Protecteur du citoyen and has agreed "to go the extra mile". A new protocol has been implemented. In addition to new rules designed to provide better training of these persons and a more specific definition of their responsibilities, the Ministère has acknowledged its own responsibility in errors that were made in good faith.

A legislative modification was welcome: loan remission in exceptional cases.

The Protecteur du citoyen is also pleased with the modifications of the Act respecting financial assistance for education expenses allowing the Ministère to forgive in part or in total a debt when exceptional circumstances prevail. Indeed, the Protecteur du citoyen had drawn the attention of the Ministère to several cases where students or former students were unable to repay monies received

erroneously, albeit in good faith, without becoming destitute. In such cases, a remission was the only solution and the Protecteur du citoyen had expressed the hope this measure would be adopted. It has in fact been adopted but it is not yet in effect.

Of course, the Protecteur du citoyen hopes this measure will be implemented as soon as possible.

As mentioned in this report however, he has noticed, that administration sometimes hesitate greatly in implementing similar provisions that are already in existence. He hopes the Ministère will comply voluntarily with the legislator's intent and that the measure will be applied with flexibility and good judgement.

The administration takes a more flexible stand with regards to a student, victim of an illegal action by a collection agency.

With regard to a different matter, the Administration accepted, after the Protecteur du citoyen had intervened, to soften its stance in the case of a student who had been asked to pay interests he believed were not due. The collection agency mandated by the Ministère to collect amounts owing had indeed exceeded its mandate by accepting an agreement, which cancelled the interest owed.

Since the student had acted in good faith, the Ministère agreed to "correct" in part the results of the mistake made by the collection agency and granted the citizen a reduction of the interests owed, which had continued to accumulate after the agreement made with the agency.

Eligibility to an English language education schooling.

Unnecessary requirements

Over the span of a few months, the Administration had to examine approximately fourteen thousand requests for access to education in English.

The Protecteur du citoyen also chose the following case as a good example of bureaucratic inflexibility hindering a citizen.

It is the responsibility of the Ministère de l'Éducation to determine the eligibility of students regarding English-language education, according to the Charter of the French language.

The Charter stipulates that children are to be educated at the elementary and secondary levels in the official language of Quebec, which is French. However, provided that the child or one of his or her parents are of English Canadian origins, or is subject to one of the exemptions provided by the Charter, then the child may be educated in English upon request. In 2003, approximately fourteen thousand requests of access to English-language education were submitted to the Ministère.

It is therefore important to avoid unnecessary requirements which only cause additional delays.

When the child is clearly eligible, it is important not to complicate the lives of the people involved by imposing excessive requirements that could easily cause delays, and by extension, uncertainty and anxiety, even to the extent of jeopardizing the outcome of a school year. The following case is a clear example of such a situation.

The citizen clearly established the identity of the child's father.

A French-speaking citizen wished for her son to be admitted to an English school. The child's father is an English-speaking citizen from New Brunswick who went to

English elementary and secondary schools in Canada. Consequently, the boy is entitled to be educated in English in Quebec. The lady explained that her son was born in the United States. Since the father had refused to acknowledge his son, his name does not appear on the birth certificate issued by the American authorities, which she has submitted to the Administration.

However, she produced the results of a DNA test, thereby proving the paternity of the father, the ruling of an American court confirming said paternity, as well as the decision of the Québec Superior Court granting her the custody of the child and directing the father to make support payments.

The Administration nevertheless insisted on a birth certificate.

The Ministère nevertheless insisted on the need for a modified birth certificate showing the name of the father. The citizen filed a complaint with the Protecteur du citoyen, while at the same time taking steps to obtain the requested document. Results are long in coming. Unfortunately, time was of the essence as the school board informed the citizen that without the Ministère's authorization, the boy would no longer be eligible for English-language education after the Christmas holidays.

In its communication with the Protecteur du citoyen, the Administration claimed that such document was absolutely vital in order to assign the child a new "permanent code".

The Protecteur du citoyen considers the position of the Ministère to be inflexible, if not unreasonable.

After further consideration of the facts, the Protecteur du citoyen concluded that the Ministère's position was not only unreasonable but also failed to acknowledge the enforceability of the rulings. A competent American court had ruled on the paternity of the father and the Québec Superior Court had supported the American ruling by imposing support payments on the father. Indeed, Article 2 of the Regulation respecting requests to receive instruction in English clearly stipulates that, in the absence of a birth certificate, "an official document issued by a competent authority and establishing the date of birth, sex and filiation[3] of the child" is just as valid. Under the circumstances, what on Earth could have been given in order to issue the authorization certificate as well as to alter the permanent code?

The Protecteur du citoyen also pointed out that demanding the correction of the permanent code as a prerequisite for granting an authorization certificate was in fact adding to the legislative and regulatory provisions in effect, which exceeded the power vested the Administration.

A correction was made.

The Ministère accepted the arguments of the Protecteur du citoyen and delivered a certificate of eligibility. The procedure to modify the child's permanent code, very relevant for that matter, could continue without compromising the outcome of the school year for the child.

3. Underlined by the Protecteur du citoyen

3.1.4

THE MINISTÈRE DE L'EMPLOI, DE LA SOLIDARITÉ SOCIALE ET DE LA FAMILLE

Debt collection with a human side

In general, the Ministère has the right and the obligation to collect sums granted erroneously.

In his last annual report, the Protecteur du citoyen mentioned several cases regarding the collection demands made by the Ministère about amounts owed. Certainly, the Protecteur du citoyen acknowledges that the Administration has the right and even the obligation to put forth the efforts necessary to collect monies that have been paid in excess due to statements that are sometimes wilfully incorrect.

However, it should pay special attention to cases in which psychologically or otherwise vulnerable people are involved.

However, these demands can sometimes be unreasonable, especially if they are aimed at vulnerable individuals, such as those with intellectual disabilities, or mental disorders, or those who are psychologically fragile or suffering from memory loss due to old age or illness. The Ministère's insistence then becomes the cause of suffering and profound anguish. Furthermore, in many, if not in the majority of cases, collection attempts are simply a waste of time and energy and remain ineffective because of the precarious financial situation of the citizens concerned.

Two examples of such situations.

Not unlike last year, similar cases that were brought to the attention of the Protecteur du citoyen. For example, he cites the case of a citizen who filed a misstatement in the early eighties while suffering of a serious mental illness. Nearly twenty years later, she was called upon to pay back $15,000. The Protecteur du citoyen also reviewed the case of two people over seventy years old who were obviously mentally disturbed and living in rather precarious conditions, who were ordered to reimburse more than $180,000, because an overage of $44,000 had been paid out to them a long time ago.

Following the Protecteur du citoyen's intervention, the Ministère created a professional team.

Once the Protecteur du citoyen informed the Ministère of these problems, the latter decided to approach the issue from a different angle. From now on, these cases would be reviewed by the team which examined cases requiring the Ministère's discretionary power in order to find better ways of dealing with this issue. The Protecteur du citoyen will closely follow this process.

As provided by law, the Ministère must reduce or cancel certain debts when proof of "exceptional circumstances" is provided.

Other cases where collection measures appeared to be abusive but did not necessarily involve people suffering from mental or psychological distress. Such was the case of a citizen whose debt resulted from a "sponsorship agreement" regarding her in-laws, who then kidnapped her son and confined her. Another example relates to a citizen who had not declared her husband's income when she applied for social assistance a few years earlier. However, at the time she filled in the form, this lady was the victim of violence and threats by her drug-addicted husband, who furthermore did not contribute in any way to meet the needs of the family. There was also the case of a couple who had reimbursed two-thirds of a debt by paying $130 per month who was suddenly ordered to pay $340 per month, thereby putting the couple's precarious finances in jeopardy; the same as another citizen who had reimbursed most of her debt but still had 30% of her salary garnished because a payment became overdue while she was staying in a shelter for battered women.

Most of these cases were solved to the satisfaction of the Protecteur du citoyen, either by forgiving the debt, or by accepting a less demanding payment schedule. The Protecteur du citoyen wants nevertheless to stress that the legal provisions giving the Ministère the discretionary power to reduce or cancel a debt could be applied more openly within "certain circumstances".

Measures that do not motivate people to work

Some people complained to the Protecteur du citoyen because they were being penalized for working during short but very intense periods of time such as in department stores during the Christmas holidays.

Citizens loosing the right to special benefits for a long period of time after working but for a short time.

In fact, the payment of some "special" benefits such as for glasses or dentures depended on whether beneficiaries were receiving social assistance on a continual basis for six to twelve months.

Therefore, a citizen who works intensively during a few weeks loses his right to regular benefits for a certain time, which is normal. What is less normal however is that he loses his right to "special" benefits for a prolonged period of time even though he is again receiving social assistance. In fact, these "special" benefits may be denied indefinitely if continuous assistance is interrupted too often.

It may even occur they were never entitled to these benefits. This cannot be considered normal.

The Protecteur du citoyen believes that such a strategy is not likely to motivate beneficiaries to work even sporadically, which could help prepare them for reintegrating the job market. He brought the problem to the attention of the Ministère, hoping that an appropriate solution could be found, much like what was done in the case of some farm workers, such as fruit or vegetable pickers, whose work is needed for a very limited time span.

The Protecteur du citoyen pointed out the problem and its consequences to the authorities at the Ministère.

3.1.5

THE MINISTÈRE DE L'ENVIRONNEMENT

From bad to worst

The responsibilities in environmental matters are shared by several departments.

The protection of the environment is the responsibility of several departments. In addition to the Ministère de l'Environnement (MENV), many other parties play a part in the development of various measures, as much as in their implementation. For example, the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (MAPAQ), the Société de la faune et des parcs (FAPAQ), the Municipalités régionales de comté (M.R.C.), the Ministère des Ressources naturelles (MRN), as well as the municipalities, all have responsibilities in this matter.

This situation is confusing for citizens.

As a result, citizens are sometimes bounced from one government body to another, and they end up not knowing what to do or whom to believe.

The MENV referred a citizen to the municipal inspector who authorized the work.

That is what happened to citizen who wanted some construction work to be done to stop the soil erosion of his riverside property. As he wanted things to be done properly and prevent any damage to the local fauna and its habitat, he contacted the Ministère de l'Environnement. He was told twice to contact the municipal inspector. Once he received the inspector's approval, the landowner proceeded to have the work done.

The FAPAQ ordered the work stopped and initiated criminal proceedings.

He then gets the visit of wildlife conservation officers under the direction of the FAPAQ who ordered him to stop the work immediately because they were endangering the various animal species and because he had not received the necessary authorization according to the Wildlife Conservation Act. The FAPAQ then advised him they were filing criminal charges against him for having violated of the Federal Fisheries Act, which was enforced by the above agency in Quebec. The landowner looked to the Protecteur du citoyen for help.

Despite the fact that the MENV gave the landowner incorrect information, it nevertheless refused to intervene with the FAPAQ.

The Proctecteur du Citoyen first learned that, by virtue of an agreement between the FAPAQ and the MENV, all general information concerning the protection of wildlife habitats was provided by the MENV to the public. The Ministère de l'Environnement refused to intervene with the FAPAQ to inform them that incorrect information had been given by its information service, a mistake which was compounded by the error made by the municipal inspector who gave the authorization for the construction work to begin.

The Administration repeated its refusal to the Protecteur du citoyen.

The Protecteur du citoyen therefore suggested that the Ministère inform the FAPAQ of the facts and circumstances of this case so that the latter might review the case to see if the charges could be dropped. To his great surprise, his request was denied. The Administration was of the opinion that the Ministère should not interfere with the activities of another agency and that it was up to the citizen to settle the matter with the FAPAQ.

The gentleman had to explain his case to the FAPAQ who in the end agreed to withdraw the charges.

As for the latter, it refused to withdraw the charges unless the citizen agreed in writing to have the construction work done according to FAPAQ requirements. Believing that doing so would constitute an admission of liability, the citizen

preferred to wait for the Court's decision. He therefore had to wait for the hearing, but also bear the relevant legal costs. In the meantime, the Ministère stated again in writing that the information it had provided was adequate. Before the Court opened its session on the day of the hearing, the citizen met with the prosecutor of the FAPAQ. After listening to his explanations and seeing the document from the Ministère, the prosecutor immediately dropped the charges.

On another level however, the MENV agreed to implement another suggestion made by the Protecteur du citoyen relating to the modification of the information to be provided to the public, so that its employees can provide complete and accurate information.

The MENV has modified the content of the information to be provided to the public.

The Protecteur du citoyen firmly believes that the Ministère did not act properly towards this citizen, how was acting in good faith and clearly never had any intention of breaking the law. The Ministère should have helped him to avoid criminal prosecution.

Any Ministère or government agency must consider itself responsible as to the information it publishes.

On a more general note, the Protecteur du citoyen feels that the MENV, like all other departments and agencies, should assume their obligations concerning the consequences of the information they provide to the public.

What's more, since the MENV is the first public instance as well as the ultimate reference in environmental matters, it should establish some form of leadership and help citizens struggling with the complexities of the system, rather than ignore their plight when the MENV does not seem to be involved at first glance.

In terms of being the first instance that carries responsibility in matters of the environment, the MENV must guide the citizens through this complex system.

3.1.6

THE MINISTÈRE DU REVENU DU QUÉBEC

Taxation

Restrictive interpretation

Many cases submitted to the Protecteur du citoyen depict the undue hardship stemming from the restrictive application of taxation statutes, regulations, policies and instructions. These interpretations results in overly rigid behaviours and unjustified refusals. The Protecteur du citoyen outlines four examples of such cases.

There was no monetary consideration: the sales tax had to be refunded.

The daughter of a citizen goes back to school. She gave her car to her mother to be sold. At the same time, her father reimburses his daughter's bank loan.

The student's mother paid the sales tax on the car to the Société de l'assurance automobile du Québec (SAAQ), who is acting as the representative of the Ministère du Revenu (MRQ) in this matter. At that moment, she is told this money can be reimbursed to her since it is a gift between close relatives without any monetary consideration. The Ministère refused, however, arguing that the father had reimbursed the girl's bank loan.

When informed of the case, the Protecteur du citoyen felt it was unreasonable to regard the reimbursement of a loan by a third party as consideration agreed upon between the donor and the recipient. The Administration admitted that its interpretation had been wrong and the lady was reimbursed.

Once should suffice.

Another citizen bought a car and paid the sales tax. It was then found that the car had been stolen. Once the police investigation was closed, the insurance company wanted to return the car to this citizen, without consideration. In order to straighten out the issue of ownership, the insurance company bought the car and sold it to the citizen at the same price, without any money being exchanged. The citizen paid the sales tax again. Afterwards, the Ministère refused to reimburse said second tax payment and the citizen asked the Protecteur du citoyen for help.

The Administration argued that, according to the Civil Code of Québec, the citizen could have requested that the company pay the tax. Under these circumstances, the Act respecting the Québec sales tax does not allow for any reimbursement.

The Protecteur du citoyen believed this point of view is to be unreasonable. How could the citizen ask the company to pay the tax when the company was giving[4] him the car?

He pointed out to the Ministère that the legislator could not possibly have intended that a citizen pay sales tax twice for the same purchase and recommended that a reimbursement be issued. The Administration agreed with this recommendation.

4. Underlined by the Protecteur du citoyen.

A little patience would have been appropriate.

In another case, a citizen was asked to pay outstanding taxes after his check bounced. The citizen explained to the Ministère that this is a case of mistaken identity and that someone else is using his identity to run a business. He filed a police report on the theft of his wallet. His attorney then contacted the Administration and remitted several documents proving the citizen's statement. He asked for a two-month delay to complete his search and gather all evidence.

The Ministère agreed to spread out the payments but refused to extend the delay, indicating that 10% interest charges would be added if the payment requirements are not met. The attorney referred the case to the Protecteur du citoyen.

After reviewing the case, the Protecteur du citoyen believed it perfectly legitimate and reasonable to have asked for a delay, when considering the accumulated proof and the modest amount owed, of about $900.

After asking for an advance payment of $50, a requirement which the Protecteur du citoyen thought to be unjustified, the Administration finally relented and granted the delay. Some time after that, it discovered that the citizen had acted in good faith.

Circumstances should always be considered.

There was also cause for a little more flexibility in granting a delay in the case of a film production company that wished to obtain a tax credit of $10,000. The Ministère refused the request because it was made in November 2001, which was 40 days late. In fact, the Ministère des Finances had almost two years before set a deadline for filing requests concerning taxation years beyond November 22, 1999.

The taxpayer challenged the decision of the Ministère, stating that little publicity was done regarding this requirement, mentioned the company's good record in the past and the fact that problems in the company had prevented him from filing his request in due course. The Ministère maintained its position. It argued that the situation as described, was not covered by the criteria for the application of the provision contained in the Act respecting the Ministère du Revenu regarding "exceptional cases".

Called upon by the company, the Protecteur du citoyen, disagreed. The criteria that the Administration was referring to was the product of an internal policy and not of the Act itself, thereby giving the Ministère the discretion to bring some changes if needed.

In this case, the Ministère also had to consider the good faith of the taxpayer as demonstrated by the facts. Following the Protecteur de citoyen's intervention, the Ministère decided to relax its policy and reimburse the production company's tax credits.

A ridiculous situation.

Finally, the Protecteur du citoyen wishes to mention a situation that illustrates how the complexities of administrative systems can make it difficult to implement a solution, which at the onset doesn't seem to require a second thought.

A citizen, former resident of Quebec, moved to another country upon retiring. He later returned to Canada and settled in another province.

As the beneficiary of a private pension annuity, he informed the company making the payments of his present situation. Consequently, he did not have to pay taxes in Quebec and all deductions were to be sent to the Canada Customs and Revenue Agency.

Shortly after his return to the Canada, CCRA informed him that it received only half of the amounts due. The citizen then discovered that the balance has been paid by mistake to the Ministère du Revenu du Québec (MRQ). So he asked the Ministère to be reimbursed. He was told that such requests must be made by the federal agency. The CCRA replied that there was no channel established to issue such a request to Quebec. Running out of patience, the citizen turned to the Protecteur du citoyen.

The MRQ explained to the Protecteur du citoyen that it could not possibly reimburse a citizen who had not filed an income tax return in Quebec and to whom it had not sent a notice of assessment. One could not correct a notice which had never been issued.

The Protecteur du citoyen told the Ministère it had to do something. The MRQ had received money it was not entitled to, a fact which no one denied. Moreover, the citizen was not at all responsible for the mistake that had been made. The Administration had to find a way of reimbursing him. In the end a solution was found, which put an end to this episode.

Collecting support payments

Persistent problems: funds repaying advances drawn from support payments and incorrect statements

Two problems remain: funds used to repay advances drawn from support payments and incorrect statements

In his last two annual reports, the Protecteur du citoyen has spoken of two significant problems. The first one pertains to the all too frequent practice of the Ministère of reimbursing itself by drawing the funds directly from those deposited for current support payments, for amounts paid in advance to support creditors. Another major problem regarding its incorrect and often incomprehensible statements, which were the source of misunderstandings, as well as conflicts. The Protecteur du citoyen notes that despite certain improvements, these issues are far from having been settled.

Illegal practice and a lack of judgment when reclaiming advances paid out by mistake.

That is why some citizens have called upon the Protecteur du citoyen after certain advanced funds awarded to them by mistake were reimbursed by drawing the money directing from the support payments before the balance was remitted to them. It is in fact essential by law, that no advance be remitted to a creditor when the debtor is not a resident of Quebec. When the Ministère notices that such an advance has been paid, it must reclaim it from the recipient.

However, the Protecteur du citoyen noted that said amounts owed had to be reimbursed immediately, which, in his opinion, was often unreasonable, when considering

the financial situation of the recipients. He also realised that the Ministère sometimes took it upon itself to take the money from the monthly support payments to pay itself back, which is prohibited by law since these amounts cannot be confiscated. In fact, the Ministère's personnel had been informed verbally of the reimbursement policy, without there being any clear and formal guidelines on how to proceed and what were the legal limitations that had to be respected.

The Protecteur du citoyen demanded and obtained that the Ministère contact the creditors in order to come to agreements regarding reimbursement provisions that took into account their financial situation, which also put an end to the illegal practice of confiscating funds at the same time.

Corrections are finally made to the computer system.

Furthermore, the computer system had been a source of problems since the Act went into effect.

As a result, there are still occurrences of illegal confiscations, such as the case of a citizen who was deprived of monthly support payments in the amount of $560, as well as certain arrears because she had an outstanding debt with the Ministère. The latter was under the obligation of first paying the monthly support. The situation was corrected following an intervention by the Protecteur du citoyen.

Modifications were made to the system in November 2003. The Ministère has ensured that the new programming would put an end to these mistakes. The Protecteur du citoyen intends to follow the situation closely and re-evaluate as things happened.

Incorrect statements have been the source of much grief.

The matter of incorrect and sometime incomprehensible statements has been prevalent with the Ministère for several years now. The process of researching and correcting mistakes has proven at times to be extremely labour intensive, as much for the employees of the Administration as for those of the Protecteur du citoyen's office. The latter has reported on the situation on several occasions in his annual reports as well as in his special reports. Is it so far fetched to hope that, in this day and age when information technology is capable of sending and guiding devices to Mars, the Ministère could acquire the means to allow the citizens to follow, clearly and accurately, the monthly support payments being deposited and withdrawn?

The correction of mistakes may not lead to the refusal of respecting a court's decision.

In one instance, a citizen realized that statement he was looking at was incorrect. Certain deposits he had made were not included. It did not concern him too much since he had reached an agreement with his ex-wife whereby he was paying a total of $1,500 in arrears, which had been validated by the Court.

Meanwhile, the Ministère, who had the judgement on file, proceeded to make new calculations without taking the agreement into account. By these calculations one could conclude that the gentleman did not owe any arrears, but that he had paid $550 too much to the support creditor. The Ministère therefore demanded that the latter pay back the surplus amount.

The debtor contacted the Administration himself to make sure that it respects the agreement that had been reached and cancels the reimbursement required of his ex-wife. To no avail. The Protecteur du citoyen is subsequently called upon to handle the matter.

The Protecteur du citoyen informed the Ministère that it had to abide by the judgement rendered, i.e. take into account the amount deposited by the debtor. The Ministère complied. Furthermore, the reimbursement asked of the woman was cancelled. New calculations then revealed that the Ministère owed her certain amount, which was deposited in her account.

THE MINISTÈRE DE LA SÉCURITÉ PUBLIQUE

Correctional services

Budget cuts, scarce resources, overcrowding, transfers, loss of rights: it is all related

The new Act respecting correctional services is still not in effect. The problems persist.

In his latest annual report the Protecteur du citoyen expressed his concern "with the delay in implementing this Act (respecting correctional services) adopted a year ago". Unfortunately, the situation has not changed since. The government has in fact announced that it does not intend to assign in the immediate future any resources whatsoever to implement this Act. Nevertheless, this Act was enacted by the National Assembly more than two years ago. Furthermore, the budget cuts are affecting the inmates' living conditions a little more every day. The Protecteur du citoyen can but condemn this state of affairs. Problems that had been previously discussed persist and situations that he deems unacceptable continue to occur.

The scarcity of resources and overcrowding are behind most problems.

Over the course of last year, the Protecteur du citoyen has analyzed of the complaints that have been submitted to him. After reviewing the result, he believes that the scarcity of resources, as well as the overcrowding phenomenon, within correctional facilities are often at the root of the problems encountered.

These are serious problems, ranging from the decrease in the quality of life of inmates to the actual loss of legal rights.

The overcrowding is one of the reasons for the constant transfers. These transfers have various consequences.

Quebec prisons admit some sixty thousand persons each year. The overcrowding in detention centres is one of the reasons for nearly twenty thousand transfers between the various facilities because quite often, new persons have to be admitted for various reasons into already overcrowded facilities. One inmate can therefore "move" several times during the period of his incarceration.

Many consequences

The efficiency rate of reintegration programs has been severely diminished.

First of all, inmates' ability to reintegrate society can decline considerably. The various measures designed to help rehabilitation (assessments, work or study programs, psychological and moral support by the employees of the centre or counselling agencies, follow-up of progress, etc.) cannot possibly be implemented when the inmates are constantly coming and going. Even though some measures can still be implemented their benefits may still be seriously compromised.

In addition to this, there is the increase of psychological distress and aggression, following the remoteness of a spouse from his family, for instance. In short, the constant transfers undermine efforts put forth in the social reintegration of the inmate.

That is why the Protecteur du citoyen wants to repeat his comments in his special report of 1999[5] that "the rehabilitation of offenders is the foundation of the

5. Protecteur du citoyen, Report of the Protecteur du citoyen on Québec Correctional Services, January 1999.

efforts made by society in its struggle against crime" and that "convicted persons should benefit from the measures, services, activities and programs meant to help their social rehabilitation".

Transfers can delay access to medical care.

The scarcity of resources in managing the transfers also causes many other problems, which can even lead as far as to deprive a person of his fundamental rights such as the access to medical care, for instance. For example, an inmate was transferred in October from one detention centre to another, although he was scheduled for surgery at the end of that same month. No provisions were made for him to undergo surgery somewhere else. Due to the intervention of the Protecteur du citoyen, the inmate was able to get an appointment and be operated on shortly after his transfer, in early November.

They cause the loss of personal belongings, sometimes with serious consequences.

In his last annual report, the Protecteur du citoyen mentioned problems related to compensation when personal belongings were lost. He recalled having made specific recommendations in that regard. While noting the efforts on the part of various institutions, the situation remained. Other cases of "lost personal belongings" have been pointed out to him this year.

In some cases, this may result in a loss in the quality of life of an inmate. In others, the consequences can be very serious. Obviously, that the large number of transfers considerably increases the risks of errors of all kinds.

Such as the case of this inmate who was deprived of his "canteen privileges".

For example, an inmate was transferred to another facility then found that his money had not been transferred to his account in the new prison. As a result, he cannot buy anything at the canteen. This problem is not petty. It affects his quality of life. Indeed, things that are not provided by the prison administration (tobacco, chocolates, personal hygiene products, etc.) can only be bought at the canteen. Since the prison personnel did not react, he requested the help of the Protecteur du citoyen. The investigation showed that the person in charge of accounting at the original facility had not been notified of the transfer. The intervention of the Protecteur du citoyen put an end to this oversight. The money was transferred and the citizen can buy what he needs at then canteen again.

Or, worse still, the case of a citizen whose money, needed to post his bail, was lost.

In another more serious case a citizen was arrested by the police. He is in the possession of $250, which is confiscated together with the rest of his personal belongings and he is given a receipt. Afterwards, he is transferred to prison. When he appears in Court, a $200 bail is requested. To pay his bail, he wanted to use the money that was confiscated. The officer in charge at the police station maintains that his money was transferred to the prison. The prison states not having received anything. Since he is unable to pay his bail, the citizen has no choice but to remain in prison. He asks for the help of the Protecteur du citoyen.

The investigation showed the money had indeed been confiscated and that the receipt was genuine. However, it was impossible to determine what had happened

to the money since the police claimed the money had been transferred to the prison and the prison denied ever having received it. In the absence of a register to log such transactions, the mystery remains complete.

The Protecteur du citoyen suggested that the Administration reimburse the money to the citizen in question, even if no one was to blame. The Administration agreed. The fact still remains that this complication, through no fault of the citizen at all, caused him to have delay in his release postponed by forty-eight hours and this delay would have been much longer if it had not been for the Protecteur du citoyen.

Budget cuts and scarce resources also cause a decrease in the level of service. For example, budget cuts caused the reduction of the opening hours of the gymnasium and the library, thus increasing the time that inmates spend in their cells. Moreover, inmates were scheduled to have supper at four o'clock, which is indeed a very early start to the evening. Personnel training programs have also been affected. Such situations generate dissatisfaction and aggression and they certainly compromise the reintegration process.

Scarce resources caused a reduction in services, which also hinders the reintegration process.

In conclusion, the Protecteur du citoyen can only repeat his desire for the new Act to be implemented, together with its rules and instructions.

Once more, the Protecteur du citoyen expresses his desire for the new Act adopted by the National Assembly to be put into effect.

A breach of dignity

The Protecteur du citoyen cannot possibly keep silent about a situation which occurred at the correctional facility in Quebec. As a result of a complaint of an inmate, the Protecteur du citoyen's investigation revealed that this inmate, who had been held in solitary confinement, was almost naked when he was brought before the disciplinary committee. Indeed, he was only given a towel. He was therefore exposed to the eyes of many people, including a few of the opposite sex.

Sending a prisoner to appear before a disciplinary committee almost naked is an unacceptable breach of human dignity.

The Administration could not provide any argument to justify such a humiliating behaviour, for the inmate. At the request of the Protecteur du citoyen, an official letter of apology was issued to the citizen. A note was also written and delivered to the employees, reminding them that such behaviour is unacceptable. The Protecteur du citoyen hopes that such an event will never, ever happen again.

There is no excuse for such behaviour. Consequently to the intervention of the Protecteur du citoyen, the Administration wrote an official letter of apology to the gentleman in question.

3.2

GOVERNMENT AGENCIES

THE COMMISSION ADMINISTRATIVE DES RÉGIMES DE RETRAITE ET D'ASSURANCES

3.2.1

Commission administrative des régimes de retraite et d'assurances (CARRA)

Errors committed by the government agency can lead to many serious consequences for citizens.

Several complaints received by the Protecteur du citoyen are the result of errors made by the government agency's employees: there are incorrect or incomplete information given out, inaccurate estimates or calculations of annuities or of the actuarial value of a pension, not to mention the incorrect revenue statements.

These mistakes can have serious consequences. Decisions regarding retirement are based on this information. Once such a decision is taken, it is nearly impossible to go back on it. The newly retired person then learns he will receive less than he was expecting. Sometimes, he will only find out the bad news much later, because the Commission has up to 36 months to verify the accuracy of its calculations. Aside from seeing their pension checks shrink, these citizens will be claimed amounts that were allegedly paid in excess. These mistakes can also affect old age security benefits, property tax refunds, medication insurance premiums, as well as refunds on the goods and services tax (GST) and the Quebec sales tax (QST). The pensioner, who is left to fend for himself, then has to fill out a mountain of fiscal paperwork in order to get refunded taxes paid in excess, as well as the social benefits he is entitled to.

A citizen wanted to transfer his retirement fund from the federal to the provincial level.

For instance, there was the case of an employee of the federal government who had entered public service in Quebec and wanted to ensure that, according to the agreement between the federal government and the Commission administrative des régimes de retraite et d'assurances (CARRA), his years of employment at the federal level were taken into account in the calculation of his provincial pension plan.

The estimated cost of the transfer went from $227,000 to $264,000... or an extra $37,000.

The Commission estimated the amount owing according to the Quebec plan at $227,000. Based on that information, the gentleman agreed to proceed with the transfer. A few months later, he was informed that the amount owing is $264,000 instead, which is a $37,000 difference! The explanations he was given were far from convincing and created doubt in his mind. He turned to the Protecteur du citoyen.

The estimation method used is faulty.

The inquiry revealed that two separate mistakes were made. On the one hand, the computer-generated amount was based on an average salary for the five years preceding the calculation made in 2003. However, when the amounts were reviewed, the Administration only took into account the salary of the last year.

The Protecteur du citoyen pointed out to the Commission the fact that the citizen began working in public service in Quebec in 1998. His exact salary for the past years was therefore known. That data should have been used for the calculations.

The calculation was performed again. The increase required was only $9,000.

The calculation was redone and the amount owing for the transfer was fixed at $236,000. Since the funds accumulated in the federal plan were higher, the excess amount was paid to the citizen.

An administrative practice that does not encourage accurate information.

The Protecteur du citoyen wishes to emphasize that current procedures can in fact worsen the situation in some cases. Citizens do not have direct access to the operating unit or even to the person responsible for their file. All communication must go through Customer Services. Customer Service agents are the ones who must look up in the file any requested information and then inform the citizen. Such a procedure leads to incomplete answers and inaccurate interpretations once in a while.

A quick and personalized service is necessary.

It is also necessary for citizens who have to make these kinds of decisions to receive the information they need within reasonable time frames. They are also entitled to a personalised service.

Sixteen weeks to obtain an annuity estimate.

For example, a citizen contacted the government agency to obtain an annuity estimate. She received an acknowledgement of receipt stating that due to an increase in the number of requests, her own request would only be addressed in eight weeks. Having received no news after sixteen weeks, she contacted the Protecteur du citoyen.

Just as the Protecteur was initiating an inquiry, the citizen finally receive the long awaited estimate. It was sent to her with an unsigned cover letter from Customer Services. She found it unfortunate that she did not have the name of any one to contact, should she wish additional information. She also pointed out that Customer Services had refused to schedule an appointment with her.

The Protecteur du citoyen reminded the government agency that, by virtue of its mission statement towards its customers, it had committed itself to process estimate requests within thirty days of their receipt. Unexpected circumstances can, of course, make it difficult to honour that time frame. However, in this particular case, CARRA had committed to the lady that her request would be processed within eight weeks. This commitment was not honoured either.

Citizens should also be treated in a more personalized fashion.

As for the unsigned cover letter that was sent, the Commission felt that it was useless to add the name of the writer, since citizens could not have access to the person in charge of their file and that any Customer Service agent receiving a request could supply the required information.

The Protecteur du citoyen disagreed. He added that this policy of not signing letters gave the impression that no one at the government agency could be held accountable for the work done and that citizens were treated in an impersonal manner.

It would be important to specify to the citizens that they can visit the government agency at any time.

As to the issue of an appointment, the Administration argued that issuing a on the matter was pointless since every person who went there in person would be received by an agent. This explanation was satisfactory to the Protecteur du citoyen. Every effort should be made however to ensure that citizens who file a request of this nature are properly informed regarding this policy.

THE COMMISSION DE LA SANTÉ ET DE LA SÉCURITÉ DU TRAVAIL

Workers' compensation

Respecting the decisions and legislation enforced by the administrative tribunal

The Protecteur du citoyen had already pointed out that the Commission at times refused to comply with CLP case law or to abide by its decisions.

In his annual report of 2002-2003, the Protecteur du citoyen revealed that despite contrary provisions in the act to that effect, the Commission de la santé et de la sécurité au travail (CSST), refused to enforce a decision rendered by the Commission des lésions professionnelles (CLP) or to comply with this tribunal's case law when interpreting certain legal or regulatory provisions. The Protectrice du citoyen therefore brought these issues to the attention of the Chairman of the Board and Chief Executive Officer of the CSST, who concurred.

The policy of the government agency is modified to comply with the case law.

Consequently, the government agency modified its policy in September 2003 regarding the right of retired employees to receive income replacement benefits, which now in complies with the Tribunal's interpretation of the act. The victims no longer need to present their case before the latter to obtain compensation as they are entitled to.

The CSST's Chairman of the Board and Chief Executive Officer pointed out that CLP decisions were binding enforceable.

The Commission's Chief Executive Officer also issued written instructions reminding its various departments "that CLP decisions were legally binding and that everyone had to comply immediately and without delay", as is specified by law.

Despite these instructions, the Protecteur du citoyen was called upon to intervene in a case where the CLP ruled in favour of the worker in a dispute. Among other things, the worker was granted the right to rehabilitation sessions. The CSST has refused to enforce the decision of the tribunal and requested a "review for cause", i.e. that the case be heard by another commissioner.

After reviewing the file, the Protecteur du citoyen concluded that there was absolutely nothing that could justify not enforcing the CLP decision. The CSST agreed that this was not an exceptional case requiring special treatment. The CLP's decision was enforced.

In many cases, the government agency is overly restrictive in its interpretation of provisions in effect.

Secondly, the Protecteur du citoyen wishes to point out situations where the government agency has been overly restrictive in its application of the law, of regulations or even of its own current policies.

The application of Règlement sur les frais de transport et de déplacement is a case in point.

For instance, the Protecteur du citoyen had already pointed out to the government agency the problems resulting from a rigid implementation of the Règlement sur les frais de voyage et de déplacement, which only reimburses the costs of public transport when workers must go to their medical appointments or treatments. The Commission had stated to be open to "certain terms" in order to "accommodate the workers";

Nonetheless, the Protecteur du citoyen has since noted that the government agency is not always showing the openness that was promised. A worker was threatened with losing his income replacement benefits if he did not go to his physiotherapy treatments. The man did not have a vehicle and no public transport was available near his home. Thanks to the intervention of the Protecteur du citoyen, the Administration took the necessary measures to resolve the situation and agreed to pay a portion of the transportation to a volunteer service.

A worker's student status must also be used as the basis for calculations of income replacement benefits.

Another example of overly restrictive interpretation concerns a 25-year old citizen who finished her studies in police technology in the spring to enrol in the mandatory internship at the École nationale de police. She was notified of her acceptance for the following January and given full-time student status, which is common practice at that institution.

Meanwhile, she sustained an occupational injury for which the CSST granted her income replacement benefits for a certain amount of time, based on minimum wage. In January, she suffered a relapse during her internship. Income replacement benefits are given again, still based on minimum wage. The citizen requested that the benefits be calculated based on the salary of a police officer. The Administration refused on the grounds that, in its opinion, the citizen was not a student at the time of the initial injury nor at the time of the relapse.

The Protecteur du citoyen found that the CSST did not comply with the legislation nor its own internal policy. The former stipulates that benefits paid to a student older than 21 years of age must be calculated based on the gross income that the student would have earned after finishing his studies, had she not sustained an occupational injury. The latter states that a student must be considered as such if he or she is enrolled full time in an educational institution at the time of the event. This was the case for this citizen. Furthermore, she was enrolled as intern at the time of the relapse. The CSST shared the opinion of the Protecteur du citoyen. The citizen received benefits totalling more than $22,000.

The Administration is sometimes too stingy when cancelling debts, even though the measure is authorized by law.

The Administration is often very reticent in enforcing a provision of the act whereby it can cancel a debt if it deems it appropriate, given the worker's good faith or financial situation.

In one case, the agency demanded the reimbursement of $1,500 paid to a worker as compensation for a permanent decrease in her work capacity. However, the CSST had paid this amount while the employer was challenging its position before the CLP, which violated the law. The tribunal eventually reversed the position of the Commission. The citizen considered the demand of reimbursement to be ill-founded because she contacted the CSST before cashing the check. She had received assurances that this sum would not be claimed back from her, whatever the future decisions may be. Having been denied after review, she turned to the CLP and the Protecteur du citoyen at the same time.

The Protecteur du citoyen felt that the initial mistake being the agency's, when incorrect information was given to the citizen, as well as her good faith justified the cancellation of the debt, as authorized by law. Initially, the Commission was opposed to the Protecteur du citoyen's recommendation. It believed itself bound by the decision of its review board. After the Protecteur du citoyen pointed out that it was unreasonable to force the citizen, under these circumstances, to spend time and money on procedures before the CLP, the CSST finally agreed to cancel the debt.

In order to avoid that rigorous control turn into inflexibility, one must see to it that suggestions or advice do not become legal imperatives.

A restrictive interpretation can also be: turning a suggestion into a legal obligation.

The members of the Medical Evaluation Board (MEB) can provide a medical opinion regarding the necessity of the prescribed care and treatment in cases where the conclusions of the attending physician are being challenged. This opinion is binding for the CSST, which has to act accordingly.

In one case, a MEB physician mentions in one such opinion that, ideally, in addition to the physiotherapy treatments prescribed by the attending physician, that it would be a good idea if the worker could be treated in a pain clinic. He noted however "it is the prerogative of the attending physician to decide on the treatment options to be considered".

Based on this document, the Commission made an appointment immediately for the worker in such a clinic. When the worker missed his appointment, his income replacement benefits were suspended. For his part, the attending physician prescribed physiotherapy treatments instead, with the CSST refused to reimburse. The worker filed a complaint with the Protecteur du citoyen.

In the Protecteur du citoyen's opinion, the CSST was being much too stringent in its interpretation of the opinion given, which actually gave the attending physician the freedom to do, as he deemed appropriate. This was not requirement but merely a suggestion. At the onset, the agency refused to reconsider. It is only after the Protecteur du citoyen intervened on several occasions that the CSST finally admitted that the text's meaning was only what was written down, nothing more. The income replacement benefits were reinstated, and paid retroactively, while the physiotherapy treatments were reimbursed.

Finally, the Protecteur du citoyen wishes to bring to light what he believes to be a serious impropriety committed towards a citizen. He would like to stress the need for constant vigilance when the dignity of people is at issue.

One concern that should remain at the forefront: the respect for the individual.

In accordance with the law, the Commission transferred the file of a worker to an employer who made the request. The Commission omitted to inform the worker, who learned of it only afterwards. Furthermore, he observed that his file contained a note with descriptive comments that he finds hurtful. Insulted and convinced this note can cause him harm, he demanded a letter of apology, which was refused. He turned to the Protecteur du citoyen for help.

While the law allowed the Commission to transmit the file to the employer, it also requires the Commission to inform the worker. Furthermore, the comments of the note were indeed hurtful and vexatious. The demand for an apology was well founded.

The Administration agreed and presented a written apology to the citizen. Furthermore, the Administration pledged to ensure that workers were always informed when their files were transferred, as well as to review the content of the training programs intended for its employees. The Protecteur du citoyen was satisfied with the measures taken.

COMPENSATION TO VICTIMS OF CRIME

A golden rule: clear, precise and motivated decisions in writing

A recommendation from the Protecteur du citoyen was accepted regarding the need to specify to victims the established rate of incapacity to go back to work.

In his last annual report, the Protecteur du citoyen pointed out the positive response regarding his recommendation of differentiating clearly, when the agency makes a decision and informs the interested parties regarding a victim's permanent incapacity, between the degree of disability evaluated due to physical injuries from the inability to resume work (I.R.T.). This recommendation was made to give victims the opportunity to "better evaluate whether they have reason to contest the decision in court and prepare, if the occasion arises, evidence support their arguments."

However, the Administration intends to make an exception to the rule when the rate is set at zero.

During the year 2003-2004, the Protecteur du citoyen noticed that no such distinction was made when the agency considered the I.R.T. rate to be equal to zero. Questioned on this matter, the Administration informed the Protecteur du citoyen that, in those cases, since the victim was not eligible for rehabilitation benefits, such a distinction was useless and, furthermore, such a practice "would raise a lot of questions, both about the policy itself and the calculation method applied".

The Protecteur du citoyen does not consider this exception to be justified. The government agency agreed.

The Protecteur du citoyen disagreed and for the same reasons as those motivating his initial recommendation: citizens who wished to challenge a decision, whether in full or in part, needed to have in hand all the elements that were used to make that decision. The Administration concurred.

The decisions that are taken and their motives should always be specified in writing.

It is for the same reasons that the Protecteur du citoyen intervened in the case of a citizen who had been informed verbally by the government agency that it was terminating her benefits. However, despite her request, the agency neglected to send her the detailed decision in writing. The inquiry showed that in fact, the CSST had rendered several decisions on different matters in the file. The Protecteur du citoyen reminded the agency of the provisions under the Act respecting Administrative justice, which stipulated a decision communicated orally to the parties, must be in writing together with the reasons on which it is based".

The CSST admitted it was wrong. The citizen received all the relevant explanations in writing as to the decisions rendered.

THE CURATEUR PUBLIC

Follow-up to the reports from the Protecteur du citoyen: comments and recommendations

The State must provide financial support for the activities of the Curateur public.

In 1997, faced with a government agency presumably experiencing serious difficulty, the Protecteur du citoyen took the initiative of submitting his observations to the authorities, so that tangible actions could be taken quickly to remedy the situation. It was urgent. The exponential increase in complaints received, as well as the absence of any satisfactory reply to the recommendations submitted to this government agency were worrisome.

Therefore, after having produced three special reports, the Protecteur du citoyen closely followed the reform measures initiated by the Curateur public. He had committed himself before the members of National Assembly, to analyse the actions taken by the Curateur public pursuant to his recommendations. This analysis is now complete and the Protecteur du citoyen can now confirm the significant efforts had been made by the Curateur public in to improve his entire administration. However, a lot still remains to be done.

However, for these changes to last, the Protecteur du citoyen still believes that the government must provide the Curateur public with the required manpower and appropriate financial and material resources. If not, it is to fear that the adjustments undertaken over the last five years will never reach the goals set out.

The Curateur public is open to external expertise

Following the recommendations made by the Protecteur du citoyen, the Curateur public has taken the following measures:

A advisory committee was established.

- He created an advisory committee to provide guidance regarding the protection and representation of protected incapable people;

Agreement with the Health and Social services ombudsman.

- He came to an agreement with the Health and Social services ombudsman on October 7, 2003. This agreement is primarily intended to allow the transfer of information between the two agencies and a more effective coordination of their interventions to guarantee the well-being of the incapable people who are hospitalized or in care facilities. The Protecteur du citoyen recommended that whenever possible, the incapable person who is the subject of a complaint submitted before the Health and Social services ombudsman, be involved in inquiry process, as well as informed of any actions that the Curateur public takes in his name and of their results;

An advisory committee on ethical matters.

- He created an advisory committee on ethical matters. Although the Protecteur du citoyen approved the creation of such a committee, he feels that the Curateur public should also have asked the committee to develop guidelines on touchy issues where ethical challenges are often present;

Cooperation with community organizations.

- He made agreements with community organizations with the mandate of protecting and defending the rights of vulnerable persons. He should do the same with the user committees of healthcare institutions and social services with whom the Curateur public does not currently have a memorandum of understanding.

Preventive interventions by the Curateur public and inquiry methods

He is bestowed with greater authority to protect incapable people.

Since the Curateur public is the government agency responsible for protecting the interests of vulnerable people, the Protecteur du citoyen felt that he should have the power to intervene and therefore act quickly and decisively if the situation demands it, even before protective supervision measures are instituted, all throughout his mandate.

To that end, legislative amendments were inacted allowing him, upon authorization from the Court, to protect individuals through interim measures in cases where the institution of protective supervision is imminent. He recently implemented a policy outlining the applicable regulations in these circumstances.

Elaborating new policies.

Another policy provides guidelines in situations where an interim administration is required to protect of the property of people for whom the protection process has been initiated.

Finally, a third policy provides guidance to employees of the Curateur public on the suitability and appropriate actions in managing a person's affairs when the urgency of the situation demands it.

The Curateur public should not hesitate to use his authority. It is important that he be present in the living environment of incapable people.

The Protecteur du citoyen also wants to stress the fact that the Curateur public must be able to use his power as investigation commissioner provided by law, in any case where the life, health or safety of persons are threatened, as well as when their property is jeapordized. He is awaiting decisions from the Curateur public in that regard.

Representation of incapable people

The major part of the follow-up work done by the Protecteur du citoyen focused on how the Curateur public meets his responsibilities as representative of incapable people. While acknowledging that significant improvements have been made to this important part of his mandate, the Protecteur du citoyen fears that without additional labour and financial resources, the objectives that were set out will not be met.

Knowledge of his clients and their living environment

It is vital that the Curateur public be present in the living environment of all incapable persons he represents, that he visits them on a regular basis and that he pay particular attention to institutions or private persons who operate without a licence. At the moment and with the means at his disposal, it is impossible for him to visit all his clients where they reside, if only once a year.

Knowledge of their needs

...in order to know more about his clients' needs.

Being absent from long-term care facilities, the Curateur public was unaware of the needs of his clients and could therefore not evaluate properly whether personnel in these care facilities were providing the goods and services that their clients condition required. He was also unable of ascertaining whether these institutions were limiting their invoices to the goods and products that they were authorized to charge.

Despite some measure of improvement, the Protecteur du citoyen deems it necessary to recommend, again, that the Curateur public finds the means to properly identify on a regular basis the needs of the people he represents, that he ensures that the required care and services are provided and that the costs are invoiced correctly, as the case may be.

Exercising the rights of incapable people

A measure designed to ensure the civil rights of the represented persons: legal services accessible to all.

The Curateur public could not lay claim to an excellent record regarding that exercise of his clients' civil rights. Recommendations were submitted to him on the matter, several of which have been accepted.

- The representation services including those provided by attorneys are now available to all protected persons.
- The Curateur public developed a "systemic approach" regarding legal problems where all employees can benefit from the expertise of its legal contingent.

Exchange mechanisms require testing.

The Protecteur du citoyen, however, believes that the Curateur public should improve his information exchange mechanisms with different organizations, in cases where people he represents are referred to the Commission d'examen des troubles mentaux following criminal charges brought or when they are confined to a care facility because they constitute a danger to themselves.

The Protecteur du citoyen believes that the Curateur public must also have the means of ensuring that incapable people are supported at all stages of the legal procedures.

In order to act in a timely manner, it is also essential that the Curateur public be informed immediately when a person will be or has been placed in custody and wishes to challenge this decision before the Tribunal administratif du Québec.

Health care consent

Care facilities are still not forwarding all of the consent to care forms.

The Protecteur du citoyen had noted that the Curateur public did not verify thoroughly and systematically whether the person under care had refused to be treated, and, when consent to care forms were submitted to him by a care facility, was accepting blindly statements made by these facilities. This is why the Protecteur du citoyen felt it was necessary for the Curateur public to implement very strict guidelines regarding this matter.

The Protecteur du citoyen acknowledges the fact that significant changes have been made to the processing of consent to care forms.

However, the doubts of the Protecteur du citoyen that several consent to care forms were not forwarded to the Curateur public have been confirmed. The Curateur public admitted that care facilities neglected to obtain his consent in nearly 60% of the cases in the absence of resuscitation following cardio-pulmonary arrest.

The Protecteur du citoyen therefore again recommends that the Curateur public be given the necessary verification tools in order to ensure that he will be called upon by the care facilities in all cases where his consent is required and that he has the necessary manpower at his disposal to act and react.

The "de-institutionalisation" of his clientele

The Curateur public is now included in the choice of living environment of incapable people. He should visit these environments regularly.

The Protecteur du citoyen has reported on several occasions to the Curateur public's failure to intervene when people he represented were transferred to an open living environment after a long period in a psychiatric institution. It seemed contradictory that the government agency mandated to protect the rights of incapable people be, for all intents and purposes, absent from discussions dealing with discharge procedures and the choice of new living quarters.

The Protecteur du citoyen has noted that the Curateur public has recently been included in this process. Aside from of simply visiting the care facilities or protected persons, he has taken part in developing response plans. He has implemented follow-up procedures in order to verify how the person is adapting to the new situation after leaving the hospital, and recommend a move, if necessary.

However, since as the employees of the Curateur public are not in any position to pay regular visits to the persons they represent, the Protecteur du citoyen felt it necessary to advise him to follow-up regularly and for a period of three years, those persons who have recently been relocated after spending a long period in a psychiatric institution, in order to make sure that the "de-institutionalisation objectives" have been reached.

The income of incapable people

The Curateur public must reimburse losses caused by his delays.

Following the appointment of the Curateur public as a person's legal representative of the Curateur public, the delays in making an inventory of all the sources of income and property were quite lengthy. Since these delays are still so long, the Protecteur du citoyen fears this may penalise the incapable person under protection. If the Curateur public is not informed quickly of all the sums that these persons are owed but have not requested prior to being represented, they run the risk of losing these funds entirely or in part.

We are of the opinion that people under the protection of the Curateur public cannot, under any circumstance, be adversely affected in any way because of the Curateur public's tardiness in managing of his affairs. Consequently the Protecteur

du citoyen urges the Curateur public to ensure that any money lost by people under his protection due to his own administrative delays in identifying all the sources of income.

The management of out-of-pocket expenses: delegated to institution employee

A management guide to be developed.

The legislator authorized the Curateur public to delegate to an institution employee the management of protected persons' monthly allowances, which are paid to cover the person's personal expenses. In so doing, the employee must take into account the wishes of the incapable person.

The Protecteur du citoyen considered that this legislative amendment should come with guarantees on how these institutions would execute this mandate. The Protecteur du citoyen also felt that they should be accountable to the Curateur public for that management. Nearly five years after this amendment was enacted, the Curateur public is still working on a managementl guide. The Protecteur du citoyen will therefore refrain commenting on that issue.

Supervision is required.

Since they are not governed by the Act respecting the Health services and Social Services, the particular nature of the care facilities or persons operating without a licence gives them freedom to act as they see fit in their management of the property and of the people under their care. Consequently Protecteur du citoyen reiterates the recommendation he had already submitted to the Curateur public, whereby the latter should prepare a list of the facilities or private persons, including those who are operating without a licence who are caring for people he represents and oversee closely their management of the out-of-pocket expenses of protected people under their care.

Pick up, conservation and return of protected persons' personal property

Procedures in need of review.

The Protecteur du citoyen had given the Curateur public several recommendations to correct failings in the handling of personal property after being appointed as legal representative of an incapable person. The Protecteur du citoyen demonstrated the Curateur public's inability to protect his charges properly.

The Curateur public is now reviewing all his procedures in this matter. The Protecteur du citoyen will therefore refrain from commenting at the present time.

Maintenance, payment of relevant expenses and sale of buildings

In many cases, the Curateur public must take over the management of buildings belonging to people he represents. Procedures regarding the conservation, maintainance, rental or sale of real estate property needed to be reviewed thoroughly.

Guidelines to be established.

While a number of improvements have been noted, the Protecteur du citoyen still recommends that the Curateur public quickly provide some guidelines regarding his obligations in the case of a protected person who is the owner of real estate.

Monitoring cases of private protective supervision

A new policy is announced.

By law, the Curateur public is required to oversee all cases of tutorship and curatorship of persons of full age and tutorship of some minors. The Protecteur du citoyen has suggested several times some improvements to be made in this regard.

The Curateur public examined the recommendations of the Protecteur du citoyen and took into account suggestions included in the report of a working committee created to examine this issue. He assured the Protecteur du citoyen, in December of 2003, that he should be able to provide him shortly with a policy covering this aspect of his mandate.

Access to summary account of administration

Changes should be made to ensure that the summary account is better understood.

The Curateur public Act stipulates that he has to provide a summary account of his administration, at least once a year, to the persons he represents, a close relative or to those showing a special an interest in the protected person.

When a request for this document was authorized, the Curateur public used to issues a statement of revenue and expenditure. This document is not adapted to the person for whom it was intended and was often incomprehensible and incomplete. The Protecteur du citoyen recommended that it be modified.

The Curateur public has yet to implement this recommendation, but he believes that he will be able to do so in 2006 when the new computer system will be up and running. The Protecteur du citoyen recommends that, until then, a template of a simplified monthly statement be provided to his staff in order to meet the needs of his clientele.

The administration of property under trusteeship

Resources to be provided for Curateur public's secondary mandates.

The Protecteur du citoyen had recommended that the Curateur public be relieved of the trusteeship of unclaimed property, as he felt that Curateur public's vital social commitments of representating and assisting incapable people required his undivided attention.

This recommendation has not elicited any positive response as yet on the part of the government. Considering that the Curateur public has retained and even expanded his trusteeship mandate of unclaimed property, he must have the

required resources to do so. If the resources currently attributed are not quickly and substantially upgraded, believing that the Curateur public will be able to fulfil this role adequately is wishful thinking.

Cost assumed by the Government to compensate damages

The Curateur public will continue to bear compensation costs resulting from errors in the past.

The extensive comments addressed to the Curateur public, both by the Vérificateur général and the Protecteur du citoyen, have promted the government to compensate financial losses incurred by citizens. It also mandated a team of experts to guide the Curateur public in improving the system. A budget of nearly $ 4,500,000 was allocated to that end.

The special budget allocated to the Curateur public by the government is now depleted. The results found to date by the Protecteur du Citoyen in his inquiries have led him to conclude that the Curateur public has erred in the application of his mandate. Some of theses cases are still currently pending. The Curateur public has stated that he intends to continue to compensate damages sustained by people under his protection so as to ensure that all cases are settled equitably.

3.2.4

THE RÉGIE DE L'ASSURANCE MALADIE DU QUÉBEC

Drug insurance plan: the information should always be made available to the citizens

The citizens know very little about drug insurance plan. They make mistakes.

As in past years, the Protecteur du citoyen has been asked to intervene regarding the drug insurance plan. As a result, he has been able to observe the extent to which citizens have difficulties in comprehending not only the plan's procedures but even its basic principles, such as the conditions for his eligibility.

In his last annual report, the Protecteur du citoyen pointed out how little citizens understand the drug insurance plan. He stressed that there had been no wide-scale information campaign since the plan was implemented in 1997. Citizens are still trying to grasp the provisions of the law and the ensuing obligations.

The large-scalee information campaign scheduled for the fall of 2003 has been postponed. However, actions will have to be taken soon.

Many are not aware that they are obliged to subscribe personally, as well as subscribe their spouses and their children to a private group insurance plan when one is available. People who had acted in good faith end up being claimed sometimes significant amounts because they or their next of kin were enrolled public drug insurance plan without being entitled to it.

An information campaign was scheduled for the fall of 2003, but was postponed. The Protecteur du citoyen, however, is convinced of the necessity of acting as soon as possible.

Moreover, there have been serious problems concerning telephone access at the beginning of 2003-2004. That situation has now been remedied.

Adding to the fire, several people have complained to the Protecteur du citoyen in early 2003 of the frustrating impossibility of reaching the agency by telephone. In fact, at the time of writing these lines, a total of ninety-eight out of the one hundred thirty-five complaints received were related to this specific issue.

In the meantime, the Régie has taken the necessary measures to resolve the situation by hiring some forty people and the number of complaints has since fallen dramatically. However, the system remains precarious as a new deluge of calls demonstrated in early January of 2004. Is it so unreasonable to believe that a better-informed public would contact the government agency less frequently?

On the case of a couple, each person should have been treated separately

The situation of all the members of one family are deemed identical. It is not always true.

Among the cases that reflected the Protecteur du citoyen, the following example illustrates the risks of considering all the members of one «as one case» without paying attention to the situation of each member.

A Canadian citizen comes back to live in Quebec with her husband and children. Her husband only has a one-year residence permit.

A person born in Quebec and therefore a Canadian citizen, left the province at an early age. She returned with her husband and their two children at the end of 2001. The gentleman was not a Canadian citizen nor did he hold a permanent resident status. He did have, however, a work permit valid for one year, to be renewed in 2003.

Each family member got a health insurance card valid for one year. The lady requested a card valid for four years, which is normal for Canadian citizens living in Quebec. The government agency refused and she filed a complaint with the Protecteur du citoyen.

They all received health insurance cards valid for one year. The lady challenged this decision. She requested for herself and for her children cards that were; valid for four years.

The investigation showed that the Regie had considered the situation of all family members was the same as that of the father. Since he only had a one-year residence permit, it had applied the same results there to his wife and children.

The Régie had based its situation of the father only.

After reviewing this case, the Protecteur du citoyen thought this position to be unreasonable. On the one hand, the intent of the Health Insurance Act is to consider in mind the intention of the Canadian citizen who comes to live in Quebec. When the citizen expresses the wish to live here, he is admissible for four years and so are his children. Yet, the Régie had presumed the intentions of the lady solely on the status of her husband. On the other hand, the Protecteur du citoyen learnt that the gentleman in question had taken the necessary steps at the Citizenship and Immigration Canada to obtain the status of permanent resident, which lent even more credibility to the request of his wife.

This decision was unreasonable; the matter should have been explored further and questions asked about the intentions of the lady to stay in Quebec.

At the suggestion of the Protecteur du citoyen, the government agency contacted the lady. She made a statement to the effect that she intended to stay in Quebec, and as a result she received cards for herself and for her children, valid for four years.

After verification, the government agency complied with the wish of the Protecteur du citoyen. The lady and her children each received cards valid for four years.

3.2.5

THE SOCIÉTÉ DE LA FAUNE ET DES PARCS DU QUÉBEC

Established and public rules.

A process and a minimum number of known rules must exist.

A case involving this government agency drew the attention of the Protecteur du citoyen. While he must very often tackle overly strict requirements, the Administration must nonetheless establish fairly uniform procedures and take the appropriate measures to ensure that the "rules of the game" are known, in order to guarantee the equal treatment of all citizens.

The Society is responsible for the distribution by means of a lucky draw of all available trapping territories. The order of priority is established by the SÉPAQ.

Any trapping territories available in Quebec are attributed through a draw. A "winning" citizen may obtain a lease granting him exclusive trapping rights for a period of nine years.

The competition is conducted by the Société de la faune et des parcs du Québec (FAPAQ). However, it is the Société des établissements de plein air du Québec (SÉPAQ) that issues the list of winners who are sorted according to priority. The list is then forwarded to the FAPAQ, which distributes the available territories to the winners in order according to the list.

Her name is skipped in the priority list.

A female citizen learned that the person immediately ahead of her on the list refused the territory offered to him. She therefore expected to be offered said territory. After a few days without any news, she contacted the Société to learn they skipped her name and offered the territory to someone else. She brought the case to the attention of the Protecteur du citoyen.

The requirement was checked in her case only.

The inquiry revealed that no offer had been made to the lady because she did not own a trapper's licence. The Protecteur du citoyen also learned that this requirement was not checked in the case of the person who initially refused the territory, nor was it for the other candidates, for that matter.

She could have complied with the requirements if the offer had been made to her earlier.

Therefore, while the priority list of the recipients had been issued in June, some available territories still had to be distributed in mid-September. If the offer had been made earlier, the lady would have been able to get the necessary licence in due time.

No uniform procedure was in place. This discretionary authority is too great and must be curtailed.

In fact, the Protecteur du citoyen found that no procedure whatsoever existed for the distribution of the available territories and that the method of operation was left entirely at the discretion of those performing the job.

The Protecteur du citoyen therefore concluded that the entire process had to be made more transparent and that it was necessary to establish procedures that would apply to everyone equally.

Once established, criteria must be made public.

He also felt it necessary that the information made available to the public indicate clearly that each citizen was required to obtain a trapping licence before being eligible for exclusive right.

The Administration concurred with the Protecteur du citoyen and wrote a definite procedure to distribute the available territories faster and apply clear, fair and reasonable standards to all the participants in the draw.

The Administration complied with the wishes of the Protecteur du citoyen.

3.2.6

THE SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE DU QUÉBEC

Assistance and compensation for road accident victims

A very rigid government agency

Errors and policies restrictions limit the rights of citizens.

The Protecteur du citoyen draws an overall picture of the cases that reached his office during the last year. Two types of situations particularly drew his attention. The first one related to citizens who had their access to benefits limited because of wrong decisions or worse, because of agency policies; benefits to which they were entitled to according to the law and regulations. It seemed to the Protecteur du citoyen that the instructions were too often if not illegal then at the very least, contrary to the spirit of a compensation act, which is social in nature and should therefore be interpreted with a "large and liberal" mindset. The Protecteur du citoyen illustrates his findings by the following examples:

An illegal directive

An independent worker was refused the right to income replacement indemnity without one look at his case.

The Automobile Insurance Act provides victims having lost their jobs following an accident, with an income replacement benefits (I.R.R.) for a period of up to one year after the date when he is deemed to be fit for work. An independent worker requested this benefit. Without even reviewing his case, the SAAQ refused. The citizen in question filed a complaint with the Protecteur du citoyen.

The restriction contained in an internal directive was not stipulated in the act, therefore, it was illegal.

The investigation revealed the existence of an internal directive stating that this provision of the law did not apply to independent workers. The Protecteur du citoyen's review of the law showed that this restriction was not at all stipulated.

The Protecteur du citoyen asked that it be corrected.

Therefore, the directive was illegal. The Protecteur du citoyen asked the agency to correct it so that the request of independent workers be examined in light of his or her specific situation, like the case of other workers.

The SAAQ agreed. The case of the citizen will be studied accordingly.

The SAAQ agreed. The new directive specified that when applicable, benefits should be granted to any worker. The government agency accepted to take a closer look at the file of the citizen in question and to proceed similarly with any other request originating from independent workers.

Incorrect interpretation

The cost of a private room must be reimbursed when the patient's medical condition requires it.

A citizen asked to be reimbursed for the costs of a semi-private room. The SAAQ refused. It argued that these costs had to be reimbursed by the hospital care insurance plan, adding that its own regulations gave it no choice but to reject the request. In fact, the SAAQ was not very well-informed regarding the provisions of the hospital care insurance plan regarding these issues. Moreover, the refusal was based on an internal directive and not on the Regulation respecting the application of the automobile insurance act. The lady was reimbursed and the internal policy of the government agency was modified.

A restrictive application

The car of a resident of a CHSLD must be adapted.

A citizen wished to avail himself of the benefits of a program for adapting his car. The SAAQ refused because the citizen lived in a long-term care facility due to functional limitations, which did prevent him, however, from certain activities outside of the facility. A provision of this program, however, excluded all residents of such a facility.

The Protecteur du citoyen believes that such a provision is contrary to the spirit of the program. Finally, the SAAQ guaranteed she would consider our comments when next reviewing the program. The SAAQ promised to correct other rejected cases as well.

Wrong decisions are badly explained

Apart from the imposition of very disputable restrictive measures, the Protecteur du citoyen also found too many decisions being taken without the necessary verifications to support them. What's more, sometimes the specific reasons are not even given, which makes it rather difficult for a citizen to fight them.

The costs for the operating room were refundable.

For example, a citizen wanted the SAAQ to bear over the cost of aesthetic surgery. The government agency refused certain costs, without performing the appropriate verifications. At the request of the Protecteur du citoyen, the SAAQ finally examined the nature of the treatments given and services provided. Based on that information, the SAAQ agreed to reimburse almost all the relevant costs.

If only the SAAQ had contacted the acupuncturist.

In another case, the physician prescribes an acupuncture treatment. The SAAQ stopped the reimbursement of the treatments, arguing that they were not related with to accident. If only it had contacted the acupuncturist.

Unreasonable delays

Nine months to re-examine a case, that is too long.

Regarding a different matter, but still as a result of complaints, the Protecteur du citoyen once more reviewed the issue of processing delays when cases are to be re-examined. The average waiting period was set at about nine months. That is far too long. The necessary measures must be taken to considerably reduce these delays.

Road safety

Too much, is just as bad as not enough...

Some requirements exceed the law and regulations.

The SAAQ must apply the provisions of the Highway Safety Code and relevant regulations regarding the operation and registration of vehicles. In the last year, the Protecteur du citoyen found that the government agency sometimes went beyond laws and regulations by adding its own requirements to the ones provided by the legislator or by the authorities issuing these regulations. Somehow, these excessive demands were a reflection of the restrictive interpretations found in dealing with compensation issues, as the Administration permitted itself, depending on one case of another, to exceed or limit its application of the law, despite the intention of the legislator. Here are some examples:

Assessment of alcohol consumption of drivers

Scaled testing methods for those who have been driving under the influence.

Since April 2002, any driver whose licence has been suspended for impaired driving, a violation of the Criminal Code, has to submit to an evaluation in a rehabilitation center recognized by the SAAQ in order to get his licence back. The same goes for any driver, suspected by the SAAQ of having a drinking problem, even when he or she has never violated the Criminal Code.

Depending on the case, it can be a brief evaluation, limited to one appointment, or a complete evaluation spread over six months. The SAAQ then issues decision based on the recommendations of the center. When the complete evaluation is deemed unsatisfactory, the SAAQ can require a follow-up evaluation, which takes another three months.

It is not until the process is finished, with costs varying from $160 to $600, that a driver can have his licence reinstated.

A new evaluation is required when a driver submits a request for a licence.

For various reasons, once the evaluation is over, some drivers do not want to recover their licence. This decision can add to their problem. A citizen, for instance, had to go through a complete evaluation and got a favourable evaluation in February of 2002. However, it is not until July of 2003 that he asked to renew his driver's licence.

The citizen waited too long to renew his licence. The SAAQ demands to confirm his continued progress.

The SAAQ refused and demanded that he be evaluated again, stating that the evaluation is only valid for one year. The citizen filed a complaint with the Protecteur du citoyen.

The investigation showed that, indeed, the SAAQ required a new complete evaluation since it had been more than a year since he had been evaluated. It argued that an "agreement" existed between the SAAQ and the federation of rehabilitation centers that conducted the evaluations.

This requirement is illegal and unknown to the public.

For his part, the Protecteur du citoyen argued that no law provided such provision. This requirement was illegal. What's more, in this particular case, the SAAQ had no reason to believe the gentleman was susceptible to a relapse. Finally, the citizen had never been informed of the existence of such a requirement.

This citizen, as well as another one in the same situation, got their licence renewed without any further delay, thanks to the intervention of the Protecteur du citoyen.

The gentleman was given his licence back.

Medical information: misuse must be avoided

The SAAQ can ask for medical information. It can take measures related to a driver's licence, when the driving capacity is concerned. It has happened that the SAAQ what it called its "greatest caution" by presuming the existence of a medical problem although there was no medical diagnosis whatsoever to that effect.

Problems are sometimes presumed to exist.

For example, in 1998, a citizen wanted to update his licence to be able to drive any type of vehicle. The physician indicated that the gentleman in question was suffered from depression in 1995. Medical follow-ups ended in 1996. Still, a yearly report is required.

A report is required every year.

Yet, the physician had answered «no» to the question whether there was a mental illness. That was not enough. The Protecteur du citoyen deems this requirement to be unreasonable.

It was unreasonable.

Of course, the physician confirmed the content of all former reports. The gentleman was able to keep his licence. Furthermore, the government agency promised to stop its annual harassment.

The situation was corrected.

In conclusion, the Protecteur du citoyen wants to note that he supports all reasonable measures, which are usually provided by law and in regulations designed to reduce accidents resulting from alcohol consumption or other causes. However, he would like to remind the Administration of the proverb that often, "better is the enemy of the good» and that even in matters of prevention "moderation is the best policy".

Moderation is always appropriate.

ANALYSIS OF PARLIAMENTARY BILLS AND DRAFT REGULATIONS

As part of our "scrutiny of legislation" efforts, all bills and draft regulations are sent to the delegate covering the relevant sector (government department or agency), for information purposes and, if necessary, a more detailed analysis. If appropriate, this analysis can lead to the intervention of the Protectrice du citoyen.

During the 2003-2004 fiscal year:

Comments on eight bills after analysis

The Protectrice du citoyen presented his observations before a parliamentary committee regarding the following bills:

1. An Act to amend the Act respecting the Ministère du Revenu and other legislative provisions;
2. An Act to amend the Act respecting administrative justice and other legislative provisions; and
3. An Act to amend the Civil Code and the Code of Civil Procedure as regard the determination of child support payments

In the following six cases, comments by the Protectrice du citoyen were addressed to the Minister sponsoring the bill:

4. An Act to amend the Highway Safety Code and the Code of Penal Procedure as regard the collection of fines;
5. An Act to implement the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption and to amend various legislative provisions in relation to adoption;
6. An Act respecting local health and social services network development agencies;
7. An Act to amend the Highway Safety Code and other legislative provisions; and
8. An Act to amend the Act respecting childcare centres and childcare services as regards places giving entitlement to grants.

Comments on two draft regulations, after analysis.

The Protectrice du citoyen comments were forwarded to the directors of the agencies responsible for the following draft regulations:

1. Regulation amending the Regulation respecting Childcare centres; and
2. Regulation amending the Regulation respecting daycares.

Public consultations

A brief was tabled before a parliamentary committee pursuant to the following public consultation:

1. Public consultation on the Five-year report from the Commission d'accès à l'information: *Reforming Access to Information: Choosing Transparency.*

The following examples depicts the types of interventions made by the Protectrice du citoyen on these issues.

Bill 11: An Act to implement the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption and to amend various legislative provisions in relation to adoption.

The Protectrice du citoyen presented her comments to the parliamentary, executive and administrative authorities regarding the contents of the bill implementing in Québec the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.

The bill amends the Civil Code of Québec, to the effect that adoption procedures for a child that is not a resident of Quebec will be undertaken solely by agencies certified by the Secretariat of International Adoption, except as provided by order of the ministre de la Santé et des Services sociaux.

The bill also outlines the Minister's duties regarding intercountry adoption and updates the agencies certification, thereby granting him examination and investigation powers, as well as a greater authority to intervene regarding the removal or non-renewal of a certification.

The Protectrice du citoyen approved the support and control measures that the Ministère shall provide to certified agencies. She also found it advisable that the Ministère, as the ultimate body overseeing the procedure, continue to execute certain duties which are required prior to processing agency requests, such as verifying legal adoption provisions in the relevant countries or entering into international agreements in that regard.

However, the Protectrice du citoyen expressed her wish that the division of responsibilities between the Secretariat and certified agencies be specified. She also believes that the accountability of the Secretariat regarding actions taken by its certified agents must be clearly identified.

Furthermore, she stressed that exceptional situations, enabling an adoption to proceed without the intervention of a certified agency must be clearly defined.

The Minister responsible specified in a letter to the Protectrice du citoyen his intentions of applying her recommendations.

Bill 20: An Act to amend the Act respecting the Ministère du Revenu and other legislative provisions

The Protectrice du citoyen submitted her comments on the bill during a detailed review performed by the Commission des finances publiques of the National Assembly.

The proposed amendment is intended to enable a public official within the Ministère du Revenu du Québec (MRQ), after being duly authorized by a judge of the Cour du Québec, "to use any device or investigative technique or procedure or do anything described by the judge that would, if not so authorised, constitute an unreasonable search or seizure in respect of a person or a person's property; the public servant so authorized may call upon he assistance of a peace officer".

As did other stakeholders, such as the Barreau du Québec and the Ordre de comptables agréés, the Protectrice du citoyen expressed to the Commission her reservations as to the necessity and opportunity of granting such extensive powers to the MRQ's public officials. Are the problems of the Ministère of such magnitude to justify such extreme measures?

Furthermore, the use of the provisions or methods of investigation mentioned in the bill has until now been the prerogative of the police by virtue of the Criminal Code. They have gained over the years the experience and ability required for handling such measures. Therefore, the Protectrice du citoyen believes that they should remain the only ones authorized to proceed with this type of activity.

Bill 35: An Act to amend the Act respecting administrative justice and other legislative provisions

During the consultation conducted on this bill, the Protectrice du citoyen, presented her observations to the Commission des institutions of the National Assembly.

She was delighted to learn that the bill not only maintains but also improves the administrative review process in departments and agencies regarding compensations and benefits. Indeed, these departments and agencies will be subject to a 90-day delay to review a decision challenged by a citizen which would have been brought before a tribunal. The Protectrice du citoyen also applauded the intention of permanently appointing the future members of the Administrative Review Tribunal of Québec (currently designated under the name of Administrative Tribunal of Québec), a measure that will ensure the independence and impartiality of judges.

She took the opportunity to recommend an addition to the Act which would allow citizens, including victims of criminal acts, persons acknowledged as rescuers in accordance to the Act to promote good citizenship, as well as victims of works related injuries whose cases are governed by the Workers' Compensation Act, to have easier and more comprehensive access to the Tribunal, as citizens do with the Act respecting industrial accidents and occupational diseases, enacted more recently.

These citizens cannot currently address the Administrative Tribunal to challenge the decisions regarding access to rehabilitation treatments, as well as some other forms of assistance. In such cases, the decision of the relevant government agency, which is, the Commission de la santé et de la sécurité du travail (CSST), is final.

The Protectrice du citoyen considers that this exclusion should be removed by including a provision in the Act that will enable citizens to also challenge such decisions before the Tribunal. The Commission has expressed a marked interest in the Protectrice du citoyen's recommendation in this regard.

Finally, the Protectrice du citoyen pointed out an important omission. The administrative review procedure as proposed does not provide for occupational injury cases in which the other party, be it the employer or the employee, feels prejudiced by a CSST decision. She therefore suggested, that a provision be added that would enable such a party to challenge said decision before the Tribunal.

Draft regulation amending the Regulation respecting daycares and a draft regulation amending the Regulation respecting Childcare centres

These regulatory amendments are based upon the Act amending the Act respecting Childcare centres and childcare services, as well as upon amendments to the Act respecting the Ministère de la Famille et de l'Enfance. Their intent is to guarantee the best possible physical or moral security of children by implementing screening procedures, i.e. a scrupulous check anyone involved with daycare centres.

The citizens so affected will therefore have to provide information, as stipulated by these regulations, in order to prove the absence of any factor that may be consider a threat to children

While agreeing with the objectives of the legislator, the Protectrice du citoyen expressed concern regarding the potential abuse of such a procedure, as it relies greatly on the subjective evaluation of individuals, which could compromise some fundamental values, such as the right to privacy, to name but one. That is why a balance should be struck between the protection of children and that of persons caring for them.

After having reviewed these draft regulations, the Protecteur du citoyen concluded that, sadly, these drafts did not provide the essential guidelines required by such a verification procedure of possible threat factors.

Consequently, the Protectrice du citoyen addressed her comments to the Ministre de l'Emploi, de la Solidarité et de la Famille and has proposed measures she deemed appropriate, such as developing strict application protocols providing clear and rigorous protection of the rights of all citizens.

The Ministère acknowledged that screening persons was a "delicate operation". The Ministère then informed the Protectrice du citoyen that it was working on

administrative guidelines on this issue, in cooperation with the Ministère de la Sécurité publique and the Commission d'accès à l'information. When a first guide was shown to her in November of 2003, the Protectrice du citoyen provided comments to the Ministère and suggested improvements.

PUBLIC AND MEDIA RELATIONS

In carrying out her dutrice, the Protecteur du citoyen and her staff participate regularly in events in connection with various conventions, conferences, seminars and fairs. This year, the Protecteur du citoyen addressed different groups and met citizens in order for them to better understand his role and mandate.

April 25, 2003	"Club d'administration du Canada" – Granby chapter, in Waterloo. Members of this club are managers and decision-makers from small- to -medium sized companies in the private or public sector.
April 29 – May 2	Bar of Montreal. Participation in the Bar of Montreal.
May 15	CLSC social workers – Amqui, CSST and SAAQ sectors.
May 20	CLSC psychologists, social workers and nurses – Plateau Mont-Royal.
May 21	Salon Info-Aînés in Windsor to inform the seniors, those with decreasing independence and their families regarding the different public, community and private resources that can improve their quality of life.
June 2 – 4	Visit from the Protectrice du citoyen in Outaouais and meeting with representatives of community organizations, government departments and agencies in the Ouataouais region.
June 3	19th Conference of the Council of Canadian Administrative Tribunals, held in Gatineau.
October 3 – 5	Salon FADOQ – Estrie to inform seniors about different resources available to them.
October 15 – 18	Education, Training and Career Fair in Montréal to provide information to students, educators, career counsellors, teachers and parents.
November 4	Community organizations in Haute-Yamaska
November 7	Social workers from the Centre hospitalier régional Lanaudière
November 9	"Open house" at the Québec courthouse in connection with the Rendez-vous de la justice.
November 12	Masters students in public administration at the ENAP campus in Montréal.

January 26, 2004	Administrative law students from the Université Laval.
January 28	Members of the Association québécoise des droits des retraités et pré-retraités in Montréal.
January 29	Personnel responsible for handling complaints at the Centre d'expertise des grands organismes gouvernementaux.
February 5	Afternoon debate on the role of attorneys in protecting the elderly, organized by the Canadian Bar Association.
February 20	"Open house" at the Granby courthouse in connection with the Rendez-vous de la justice.
March 5	First edition of the Citizens Fair in Montmagny "Un citoyen à part entière". Its objective is to inform the MRC municipality of the services accessible to them.
March 10	"Open house" at the St-Jérôme courthouse in connection with the Rendez-vous de la justice
March 12 – 14	Salon Maternité, paternité et des enfants, in Gatineau.
March 15	Representatives of the Association de défense des droits sociaux de la Rive-Sud.
March 17	"Open house" at the Drummondville courthouse in connection with the Rendez-vous de la justice.
March 25	"Open house" at the Alma courthouse in connection with the Rendez-vous de la justice

PUBLICATIONS

The Protecteur du citoyen's chronicle, Spring and Summer 2003, Winter 2004

2002-2003 Annual Report

2004-2007 Service statement to citizens

THE PROTECTEUR DU CITOYEN'S NATIONAL AND INTERNATIONAL ACTIVITIES

The Protecteur du citoyen, like many of its counterparts, participates in maintaining and strengthening the constitutional state, thereby contributing to foster democracy and promote human rights.

The Protecteur du citoyen is an institution that is well-known for its professionalism, contribution to the development of the ombudsman institution and quality of its actions regarding inter-country cooperation, in Canada as well as abroad.

The Protecteur du citoyen is a member of and participates in the activities of the following five professional associations: the International Ombudsman Institute (I.O.I), the Association of Ombudsmen and Mediators of French-speaking Countries (AOMF), the Canadian Council of Parliamentary Ombudsmen (CCPO), the United States Ombudsman Association (USOA) and the Canadian Ombudsman Forum (CFO).

Main activities abroad of the Protecteur du citoyen in 2003-2004

Board of Directors of the International Ombudsman Institute

The Protectrice du citoyen hosted the Board of Directors' annual meeting of the International Ombudsman Institute (I.O.I.), which took place in Québec from September 30th to October 3rd, 2003 at the Loews Le Concorde Hotel. Board Members were informed of the progress made in the preparations for the International I.O.I. conference to be hosted by the Protectrice du citoyen from September 7th to September 10th, 2004.

Conference of the Association of Ombudsmen and Mediators of French-speaking Countries (AOMF).

Accompanied by the Quebec Director of Investigations, the Protectrice du citoyen participated in the AOMF conference which was held in Tunis (Tunisia) from October 14th to October 17th, 2003. At the conference, Ms. Pauline Champoux-Lesage spoke on the topic of "Les ombudsmans-médiateurs et la simplification

administrative" (ombudsmen-mediators and administrative simplification). The Quebec Director of Investigations also participated as a speaker on: "Stratégies d'enquête: garder le cap" (Investigation strategies: steadying the course).

Meeting of Canadian Legislative Ombudsmen

Ms. Champoux-Lesage visited Victoria, British Columbia, on March 6th and 7th, 2003 to participate in the Canadian Legislative Ombudsmen annual meeting.

Conference of the Council of Canadian Administrative Tribunals

During the 19th Conference of the Council of Canadian Administrative Tribunals held in Gatineau on June 3rd, 2003, the Quebec Deputy Ombudsman and the Service Quality Commissioner participated in a workshop as speakers on "Le traitement efficace des plaintes de la clientèle" (The efficient handling of complaints from the clientele").

Guests received by the Protecteur du citoyen in 2003-2004

On May 29th, 2003, Ms. Julie Duelz, instructor at the Université de Paix (Belgium) was received in our Montréal offices under within the scope of a collaborative project with Quebec in the correctional sector.

Accompanied by the Director of Public Relations, the Protectrice du citoyen met Mr. Hannington Alatoa in Montréal on June 26th, 2003. Mr. Hannington Alatoa is the ombudsman for Vanuatu, who was accompanied by Ms. Debly Côté from CUSO in Ottawa, canadian organisation devoted to the defense of social justice.

The Protectrice du citoyen received Mr. Louis R. Chao, President of the International Ombudsman Committee in Taiwan, his wife and delegation from his office on July 30th, 2003.

From October 2nd to October 4th, 2003, the Protecteur du citoyen's legal advisor welcomed his provincial and federal colleagues to discuss various topics of common interest, and particularly a project to draw up an annotated act on ombudsmen, which will serve as a very useful reference. They met again in Toronto from January 5th to January 9th, 2004 to begin drafting the document.

Ms. Champoux-Lesage received Mr. Alain François Adihou, Minister responsible for relations with Institutions, Civil Society and Beninois citizens abroad, Mr. Cyrille Gougbedji, Director of Legal Affairs responsible for the file on the Mediator of the Republic, as well as the Ambassador Benin to Canada, Mr. François Loko and Ms. Laure Couda, Senior Advisor to the Ambassador of Benin. They also participated in a two-day training session in our Québec offices on October 27th and 28th, 2003. The training provided them with an opportunity to better understand our institution in order to create an ombudsman office in Benin.

On January 8th, 2004, a delegation from the office of the Commissioner of Official Languages of Canada was received in our offices in order to familiarize themselves

with the complaint analysis and handling system in use at the Protecteur du citoyen's office.

On January 30th, 2004, Mr. Bernard Richard, the newly appointed ombudsman of New Brunswick was welcomed by the Protectrice du citoyen and her colleagues. Mr. Richard was especially interested in reviewing the complaint analysis and handling system in use at the Protecteur du citoyen's office.

Translation of the Social Contract and the Annual Report

The Social Contract from the Protecteur du citoyen will be translated into Khmer. This operation is part of a project headed by Mr. Mong Hay Lao of the University of Toronto for the Social Development Centre in Phnom Penh. The objective of this document is to raise awareness of the State and the population regarding the relations between the Administration and citizens. It will be distributed in schools and in various Cambodian governmental departments.

The Protectrice du citoyen also authorized Control Yuan (Taiwan), an organization which is similar to the Protecteur du Citoyen, to translate our annual report in Chinese.

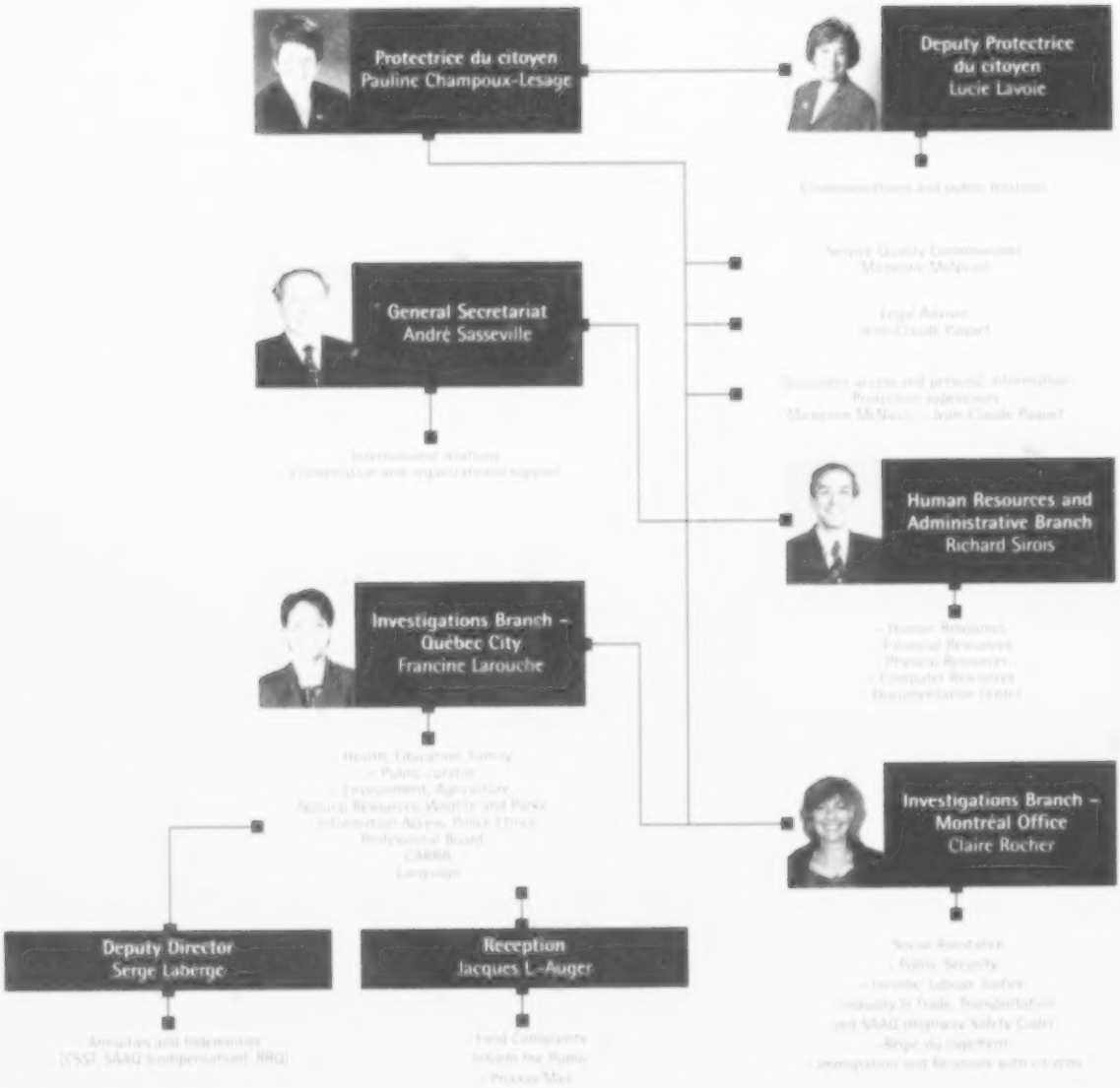
MANAGEMENT REPORT

In accordance with the Public Administration Act that the Protecteur du citoyen has decided to submit itself to, the Management Report provided herein is compliant with the requirements of said Act.

Administrative data

ADMINISTRATIVE STRUCTURE

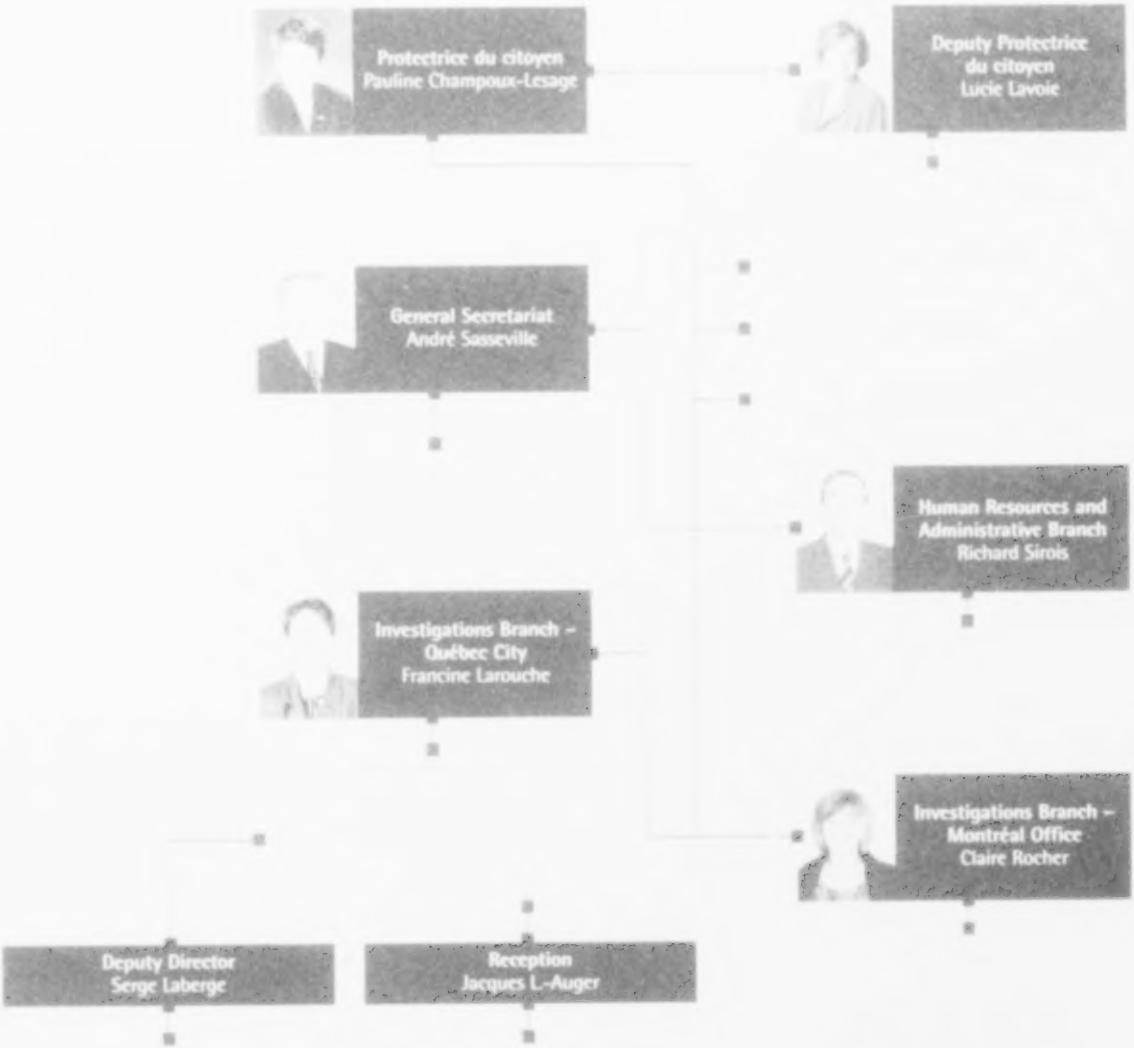
6.1



MANAGEMENT REPORT

Administrative data

6.1 ADMINISTRATIVE STRUCTURE



6.2

RESOURCES MANAGEMENT

HUMAN RESOURCES

6.2.1

In 2003-2004, the Protecteur du citoyen's staff totalled 94 authorized employees. As of March 31st, 2004, these positions were distributed as follows:

	Special appointments	Senior Managers	Middle Managers	Technicians	Support Staff	Total
Office of the Protectrice du citoyen	2	1	4		3	10
Service Quality Commissioner		1				1
Legal Advisor			1	1	1	3
General Secretariat		2	1		1	4
Human Resources and Administrative services		1	5	4	3	13
Reception		1			5	6
Investigations - Québec		2	17	9	4	32
Investigations - Montréal		1	11	11	2	25
Total	2	9	39	25	19	94

Many temporary employees joined permanent staff members last year in their efforts to assist the Protecteur du citoyen to effectively complete his mission. Once again, the Protecteur du citoyen welcomed 4 law students as interns for a 6-month paid internship.

Aware that his actions depend on the commitment, competence and mobilization of his staff, the Protecteur du citoyen developed the mobilization and efficiency in his organization in compliance with his strategic direction. In this regard, the Protecteur du citoyen has sought to foster the staff's participation in the institution's evolution, support them in their actions and establish effective communications. It is in this context that the intranet was completely redesigned in order to better meet overall needs and allow discussions to occur on specific topics in which the staff can be involved in the reflection and positioning of the Protecteur du citoyen on some social issues.

Retaining and developing staff expertise has remained a priority for the Protecteur du citoyen. The execution of an annual Human Resources Development Plan required an investment of approximately $50,000, which is a major project that required approximately 3% of his operational budget, or $531 per employee.

Moreover, the staff has been involved in the organizational development, notably through the activities of the work organization committee, which focused on identifying a work structure that would promote staff resourcing, motivation and maintain their general health, while ensuring quality of services provided to citizens. Furthermore, a staff survey on the quality of life and work climate was conducted

in January, in order to determine ways of improving and prioritising actions of the following year.

Finally, the organization of the Montréal office has been thoroughly re-examined, which lead to the reorganization of the management approach in order to provide the required professional support to the staff.

FINANCIAL RESOURCES

Credits granted to the Protecteur du citoyen by the National Assembly for the 2003-2004 fiscal year have been used as follows:

The Protecteur du citoyen's budget

EXPENDITURE STATEMENT FOR THE FISCAL YEARS ENDED: MARCH 31st, 2003 AND 2004

	2002-2003 ($)	2003-2004 ($)
REMUNERATION		
Regular and temporary employees	5,096,804	5,218,677
Employer's contributions	471,567	532,102
Pensions for former ombudsmen and deputies	206,523	250,277
Total	**5,774,894**	**6,001,056**
OPERATIONS		
Transportation and communications	428,880	484,401
Professional and administrative services	250,053	287,497
Maintenance and repairs	72,685	51,531
Rent and leasing fees	666,969	666,777
Goods and supplies	81,976	71,500
Material and equipment	120,931	56,622
Amortization	130,605	135,203
Other expenditures	73,736	1,400
Total	**1,825,835**	**1,754,931**
CAPITALIZATION		
Computer technology development	54,591	101,380
Material and equipment	88,260	76,581
Total	**142,851**	**177,961**
Grand total	7,743,580	7,933,948

Certain significant changes in the expenditures can be noted in this table compared to those of last year:

- The preparation for the Conference of the International Ombudsman Institute to be held in Québec in September of 2004 and the overlapping, in the span of a single financial year, of the preparation of two annual reports have generated increased expenses under the line "Transportation and communications".
- The analysis needed to reorganize the document management system of investigation files required additional expenses under the line "Professional and administrative services".
- The "Maintenance and repairs" as well as "Material and equipment" line items have been reduced to their normal level after the extra expenses in 2002-2003 for the re-arrangement of the premises in Québec.
- Extraordinary expenditures were made under the line item "Other expenditures" in 2002-2003 has been reduced to normal in 2003-2004.

The table below illustrates another distribution of financial resources. It has been established based on the Protecteur du citoyen's administrative structure and work organization.

Allocation of expenses for fiscal 2003-2004[1]

	Personnes	Expenses		Total	%
		Salaries	Operation		
Office of the Protecteur du citoyen and mission support	15	986,089 $	255,276 $	1,241,364 $	16 %
Direct services					
Reception	6	334,979 $	102,110 $	437,089 $	6 %
Investigations Branch, QC	32	2,102,726 $	544,588 $	2,647,315 $	34 %
Investigations Branch, MR	25	1,536,677 $	425,460 $	1,962,137 $	25 %
Communications	3	258,501 $	51,056 $	310,556 $	4 %
National and international activities			20,000 $	20,000 $	0.3 %
Administration	13	781,083 $	221,239 $	1,002,322 $	13 %
(Amortization)			135,203 $	135,203 $	2 %
Total :	94	6,001,056 $	1,754,931 $	7,755,987 $	100 %

[1] This table does not include pensions for former Ombudsmen and deputies. The operation expenses have been distributed proportionally with regard to human resources.

COMPUTER RESOURCES

The document management system for investigation files is the most important means of following up on complaints and requests submitted to the Protecteur du citoyen by citizens. It directly supports the execution of the mission of our institution.

This system, which dates back to 1991, is increasingly less effective in meeting management needs and barely passes muster in terms of the requirements of the Public Administration Act. Furthermore, this system is based on an obsolete technology for which it is increasingly difficult to find the expertise required for its support. In other words, it will have to be replaced soon.

For this purpose, many projects were completed in 2003-2004, the results of which are described below.

STRATEGIC PLANNING

The Protecteur du citoyen's strategic plan is based on the following:

Firstly, it reaffirms his commitment regarding direct services provided to citizens.

Secondly, it promotes a preventive and proactive approach in order to avoid any adverse consequences for citizens.

Thirdly, it ensures the implementation of its recommendations.

Finally, its organizational objectives are mobilization and efficiency.

2003-2004 Results

POLICY 1: **Reaffirming the Protecteur du citoyen's commitment regarding direct services provided to citizens.**

OBJECTIVE: To increase public awareness of the Protecteur du citoyen's role and services to the public and mainly, within specific population segments.

RESULT INDICATOR: The implementation of the communications plan.

RESULTS: During 2003-2004, the Protecteur du citoyen took part in several public events to inform citizens about his services: fairs, open houses, etc. Two to four activities were conducted per month.

These events provided the Protecteur du citoyen with the opportunity to meet with people of different age groups and from different backgrounds.

As planned, the Outaouais region was a targeted action: the Protectrice du citoyen met media representatives, community organizations, staff in government departments and agencies in the region.

Members of the office also participated in the 19th Conference of the Council of Administrative Tribunals and the Salon maternité, paternité et des enfants in Gatineau.

OTHER ACTIONS: Three issues of «the Protecteur du citoyen's» chronicles were published and widely distributed.

POLICY 2:	Maximizing the influence of the Protecteur du citoyen by promoting a preventive and proactive approach.
	Attention is paid to parliamentary work.
OBJECTIVE:	Emphasizing the consulting role of the Protecteur du citoyen with parliamentarians.
RESULT INDICATOR:	Number of interventions and obtained results.
RESULTS:	During the 2003-2004 fiscal year, the Protectrice du citoyen commented on eight bills and two draft regulations. She also intervened during a public consultation on the five-year report of the Commission d'accès à l'information.
	In all cases, her intervention received a reply from the Minister responsible for the project and the recommendations of the Protecteur du citoyen were taken into account. However, not all bills commented upon were approved by the National Assembly at the moment this report was written.
	The on-going analysis of the evolution of recurrent complaints
OBJECTIVE:	Target priority interventions, in a timely manner in order to mitigate adverse consequences or to prevent their recurrence.
RESULT INDICATOR:	Recommendations made to the government departments and agencies on systemic issues.
RESULTS:	As planned, a semi-annual analysis of problems with collective implications was carried out. This year, efforts were focused on the Curateur public, the Régie des rentes in Québec and the Société de l'assurance automobile du Québec SAAQ (Highway Safety Code).
GUIDELINE 3:	Maximizing the influence of Protecteur du citoyen by ensuring that his recommendations are implemented.
	Follow-up on recommendations made to government departments and agencies
OBJECTIVE:	Carry out strict follow-ups on each recommendation in order to speed up its implementation.
RESULT INDICATOR:	Recommendations being accepted and implemented.

RESULTS:

A systematic follow-up process was created for letters signed by the Protectrice du citoyen to government agency directors or deputy ministers has been established. This reminder system has had a positive outcome since not one letter was left unanswered.

The interventions of the Protectrice du citoyen vary in nature: notices of inadequacy, proposals of improvement measures, comments intended to provide other views and formal recommendations when the Protecteur du citoyen deems a correction should be made in favour of a citizen or a group of citizens.

In 2003-2004, the Protectrice du citoyen personally intervened at the highest levels of a department or agency in 12 cases, in attempt to resolve problems.

Comments were submitted during the consultation by the Commission d'acces a l'information on the use of surveillance cameras, as well as during the consultation of the Ministère de l'Emploi, de la Solidarité sociale et de la Famille on development and financing scenarios for daycares.

The Protecteur du citoyen has also cooperated with the Ministère de l'Emploi, de la Solidarité sociale et de la Famille when an administrative guide was prepared in order to establish guidelines for the verification process of factor which may be consider threats to children. He also accepted the invitation from the Ministère de la Santé et des Services sociaux to comment on the palliative care policy project.

Finally, he submitted his comments to the Ministère de la Sécurité publique regarding an administrative procedures project and a guide on the daily regiment of inmates.

The Protectrice du citoyen stresses that, in most cases, the executives were willing to listen and were open to finding a solution to the problems brought to their attention. Her comments were also taken into account.

POLICY 4: Developing organizational mobilization and efficiency

OBJECTIVE: To provide the Protecteur du citoyen with a management system that will allow it to manage requests for intervention, that will be better adapted to the needs of the organization, support his mission and achieve a more effective management of the available resources.

RESULT INDICATOR: Implementation of a new system

RESULTS: The following steps were taken in 2003-2004 in order to modernize the technology used by the Protecteur du citoyen:

- the first step was a policy study of the technological infrastructure on which to base the development and the operation of the system;
- the second step was a policy study on the choice of software tools and database development tools;
- the third step was the preliminary analysis and architecture of the remodelled system.

The result of these projects reflect the process undertaken with the Treasury Board Secretariat with the objective of obtaining the resources needed for the successful completion of this project as of 2004-2005.

SERVICE STATEMENT TO CITIZENS

In its Service Statement to Citizens, the Protecteur du citoyen expresses its commitment to offer accessible and high-quality services and treat citizens with respect and diligence.[6]

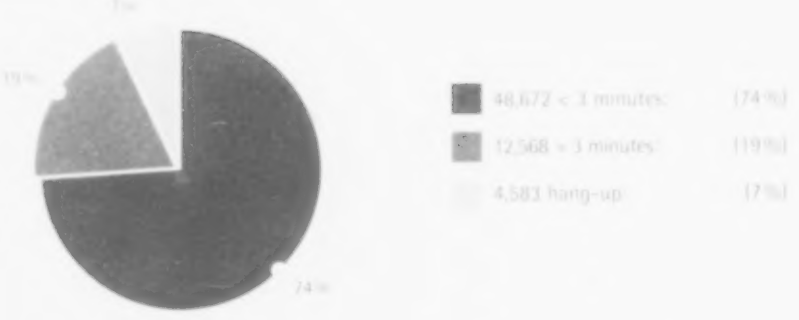
Telephone accessibility

The Protecteur du citoyen guarantees that a staff member will respond to a citizen's call within a maximum of three minutes.

In 2002-2003, 72% of phone calls were answered in less than 3 minutes. The Protecteur du citoyen is committed to improving this performance to reach 75%.

In September of 2003, some technical modifications of the telephone system were made, mainly, in routing phone calls. These measures, supported by the continuous efforts of staff, have made for better results. Thus, about 74% of 65,823 phone calls received were answered in less than three minutes; of that number 93%, or 45,138 phone calls, did not require any waiting period, the number of people hanging up reduced from 8% to 7%.

Telephone contact with a staff member of the Protecteur du citoyen within three minutes



The Protecteur du citoyen aims to pursue these efforts in order to further improve these performance rates.

6. The information for 2003-2004 covers an 11-month period, from April 1st 2003 until March 1st 2004.

Diligence

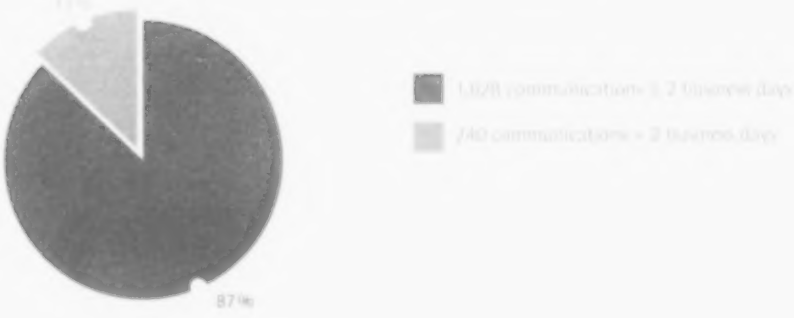
The Protecteur du citoyen responds to citizen' letters within two business days.

All correspondence is recorded in order to verify the time it takes to answer any letter that came in by fax, Internet or mail.

The Protecteur du citoyen aimed to maintain the performance achieved in 2002-2003, of replying within two business days, to at least 91% of citizens that had a letter.

The assessment of the first five months of the year indicated a decline in performance. Aggressive measures were taken to correct the situation. The objective was met during the last six months and overall in 2003-2004, for 87% of the letters received, where an answer was sent within two business days.

Response to citizen correspondence within two business days



The Protecteur du citoyen aims to reach a 91% minimum performance rate again next year.

Service requests to be processed promptly

The Protecteur du citoyen only intervenes with Quebec governmental departments or agencies. The Protecteur du citoyen therefore informs citizens whether he can accept the requests for assistance and if not, directs them toward the appropriate body within a maximum of two business days.

In 2003-2004, 92% of the requests that were outside the Protecteur du citoyen's jurisdiction were treated within two business days, versus 96% in the previous year.

The Protecteur du citoyen aims to increase efforts in order to reach a 96% performance rate again next year.

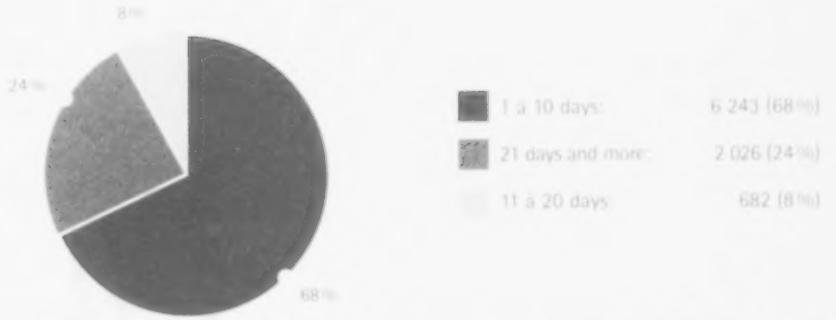
Service requests within the Protecteur du citoyen's jurisdiction are processed within ten business days.

In 2003-2004, 68% of requests under his jurisdiction were processed and completed within a maximum of ten business days; 8% were completed within 11 to 20 business days and 24% required more than 20 business days. This can be explained by the nature of some complaints, which are very complex to process and require time to resolve. In those cases, the citizen was informed about the reasons for any additional delay and about the progress of the case as important steps were completed.

In 2002-2003, 71% of the requests were completed within ten business days at the most.

This gap is due to the review of the opening of files process in order to consider the actual date of receipt of a complaint when compiling processing delays.

Service requests within jusrisdiction to be processed within ten working days



These statistics are based on the files that were closed during 2003-2004 fiscal year and therefore include 904 files that were created in the previous fiscal years

The Protecteur du citoyen intends to maintain this course and increase his performance.

6.5

THE SERVICE QUALITY COMMISSIONER'S REPORT

If citizens are dissatisfied with the type or quality of the services provided by the Protecteur du citoyen, or with the behaviour of his staff, they can file a complaint with the Protecteur du citoyen's Service Quality Commissioner.

The Protecteur du citoyen is committed to ensure that each complaint is processed within a maximum period of twenty business days with the greatest possible openness, in a completely confidential and impartial manner. In the event that the complaint cannot be processed within this time frame, the Protecteur du citoyen will inform the citizen of the time required to process the complaint and, if necessary, the reasons for any additional delay.

In 2003-2004, the Commissioner received 114 complaints from 118 citizens. Some complaints included several reasons for dissatisfaction.

The rate of founded reasons for dissatisfaction is now at 12.5%, which is an improvement compared to the previous year, when it was at 13.6%. All these complaints were corrected.

Furthermore, seventeen reasons for dissatisfaction led to improvement measures, either a detailed letter explaining the conclusions of the inquiry or an intervention to settle a misunderstanding.

The most frequent issue among the founded complaints dealt with delays by the Protecteur du citoyen, either to respond to a request or provide conclusions after a request for intervention and also the quality of communications.

Recommendation

The Commissioner has suggested that the implementation of the new Service Statement of the Protecteur du citoyen be accompanied by an awareness campaign focusing on the following two aspects of services provided to citizens:

- the quality of communications; and
- the importance of respecting time limits agreed upon with the citizen.

Follow-up on recommendations included in the 2002-2003 Annual Report

The Commissioner presented her report to the entire staff.

An action plan on record-keeping is presently being implemented and measures will be taken to take into account the recommendations of the Commissioner.

Regarding the new Service Statement to Citizens, the commitments of the Protecteur du citoyen have been reaffirmed and specified concerning delays and the quality of communications.

ACCESS TO INFORMATION AND PRIVACY

Application of the Act respecting Access to documents held by public bodies and the Protection of personal information

Pursuant to the Government action plan for the protection of personal information, every government department or agency must evaluate its measures for protecting personal information annually and include the results in their annual report.

2003-2004 Awareness and training activities

There have been awareness activities regarding the protection of personal information during *the Protection of Personal Information Week* from November 10th to 15th, 2003.

All staff members under the Investigation Branch of the Protecteur du citoyen attended a three-hour training session on the application of the Law respecting Access to documents held by public bodies and the protection of personal information.

A Confidentiality Policy dealing with every aspect and issues regarding confidentiality has been adopted.

After consulting the staff, a policy was adopted about accessing and protecting files processed by the Protecteur du citoyen staff.

2004-2005 Priority actions

The Protectrice du citoyen has identified the following priorities for the next fiscal year:

- Awareness and training activities with regard to the protection of personal information;
- Development of a document on the Access to Information Act and on the protection of personal information in order to allow investigative personnel with the Protecteur du citoyen to better understand all its provisions; and
- Working out a general plan for the protection of personal information (2004-2008).

Requests for the access to documents: statistics

During the 2003-2004 fiscal year, 34 requests were addressed to the Protecteur du citoyen by virtue of the Access to Information Act and the protection of personal information.

Among these requests, there are:

1. 28 requests for access to nominative information;
2. 1 request for access to administrative documents;
3. 1 request to forward a document to another agency;
4. 2 requests to return documents which had been handed over by the requesting party; and
5. 2 requests that, after discussion with the requesting party, were not requests by virtue of the Access to Information Act.

Statistics for the last five years

YEARS	NUMBER OF REQUESTS
2003-2004	34
2002-2003	46
2001-2002	30
2000-2001	30
1999-2000	30

STAFF MEMBERS

The Protectrice du citoyen would like to extend his thanks to all his collaborators, of all whom, during the year, in one way or the other, have contributed to the fulfillment of the Protecteur du citoyen's mission. The team members are:

AHIER Marie
ALAIN Aline
ALARIE Pierre
ANTILA Kim
ARCHAMBAULT Marie-France
AUGER Jacques L.
BAILLARGEON Rita
BEAUPRÉ Claire
BÉDARD Jean-Pierre
BÉGIN Marcel
BÉLANGER Claude
BERGERON Ann
BLACKBURN France
BOLDUC Yves M.
BOUCHARD Dominique
BOULANGER Annie
BOULIANNE Josée
BOURGET François
BOUTIN Andrée
BUSSIÈRES Jo-Anne
CAILLOUX Mariette
CARON Danielle
CAUCHON Micheline
CHASSÉ Lyne
CLÉMENT Sylvie
CÔTÉ Valérie
COURT Isabelle
CUSSON DESJARDINS Johanne
DAGUERRE André
D'AMOURS Jacinthe
DAOUST Geneviève
DE PASSILLÉ Philippe
DEMERS Marie-Christine
DESCHÊNES Lyne
DESGAGNÉ Sabrina
DESROCHERS Michelle
DUBUC HICKEY Diane
DUFOUR Francine
DUGUAY Suzanne
FALARDEAU Louise
FLEURY Francine
FORTIER François
FOURNIER Berthe
GAGNON Lucie
GAGNON Suzanne
GAUGUIN Christine
GOSSELIN Dorys
GOSSELIN-GRANT Jessy
GUAY Robert
HUDON SZIGETI Frances
JOSEPH Maryse
LABERGE Serge
LABONTÉ Michel
LADOUCEUR Marie-Claude
LALIBERTÉ Guy
LALIBERTÉ Martine
LANGLOIS Claire
LAQUERRE Nathalie
LAROUCHE Francine
LAROUCHE Francyne
LAVOIE Lucie
LEBLANC Kim
LEROUX Chantal
LESSARD Michèle
LEVAC Lucie
LIRETTE Marlène
LYNCH Micheline
MATHIEU Marie-Ève
MAYER Lise
McKAY GAGNÉ Louise
McNICOLL Micheline
MERCIER Jean-Marie
MORIN Pierre
MULAOMEROVIC Albina
NADEAU Julie
NADEAU Lorraine
NORMAND Margaret
NUNEZ Egidio
OSTIGUY Manon
PAGÉ Guy
PAQUET Jean-Claude
PAQUETTE Louise
PELLETIER Johanne
PÉLOQUIN Marie-José
PICARD Suzanne
PILON Diane
PLANTE Patrick
POULIN Lucie
PRÉVOST France
RACETTE Anne-Marie
RIOUX Sophie
ROCHER Claire
ROUSSEAU Fernande
ROUX Hélène
SASSEVILLE André
SAVARD Catherine
SÉVIGNY Monique
SIMAO Isabel
SIROIS Richard
SWEENEY Linda
TALBOT Suzanne
THÉROUX Sylvie
TOUCHETTE Stéphane
TREMBLAY Karine
TREMBLAY Mona
TRUCHON POLIARD Philippe-Antoine
TURCOTTE Sylvie
VINCENT Céline
WAZEN Shadi J.
WENTSER Georges

Employees on leave without pay, having been absent all year:
GENDRON Claire
TEIXEIRA Armenia

STATISTICS

The following pages provide data on the main activities of the Protecteur du citoyen's Investigations Branch Offices.

The data from past years combined information from systemic cases, those from cases initiated by the Protecteur du citoyen, to those resulting from citizens' requests. For 2003-2004, the data provided excludes systemic files but again includes citizens' case files originating from the Protecteur du citoyen's initiative.

To better understand the data provided, the files' coding categories are quickly described below.

Brief definition of file categories

Request outside jurisdiction: requests sent to the Protecteur du citoyen relating to an agency or a topic outside his jurisdiction.

Non-intervention or interruption: includes requests for information regarding a department or agency under the Protecteur du citoyen's jurisdiction, requests for intervention where the Protecteur du citoyen interrupted his efforts at the citizen's request and those where he refused to intervene or had to discontinue his efforts because the legislation covering his office outlines various reasons preventing him from intervening even if the request relates to an act or omission of an agency under his jurisdiction.

Referred request for intervention: requests for intervention regarding a department or agency under the Protecteur du citoyen's jurisdiction, where the Protecteur has asked the citizen to first refer the matter to said agency or its complaints office.

Completed interventions: interventions regarding a department or agency under the Protecteur du citoyen's jurisdiction where it concluded on the presence or absence of prejudice to the citizen following an act or omission attributable to said government department or agency.

Statistical data

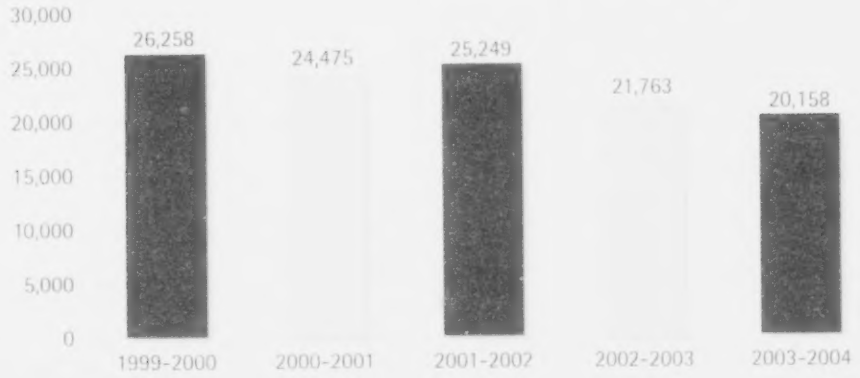
The year 2003-2004 began with an inventory of 1,411 files in process as of April 1, 2003, including reopened files. During the year, the Protecteur du citoyen received 19,582 requests and reopened 576 files. Among the 10,653 requests deemed to be under his jurisdiction, 515 were reopened files.

During the year, the Protecteur du citoyen processed 20,379 requests, of which 602 were files closed anew. He ascertained that 9,516 requests were related to agencies outside his jurisdiction while the remaining 10,863 were considered to be under his jurisdiction.

The year ended with an inventory of 1,190 files in process and re-opened files.

GRAPHIQUE 1

EVOLUTION OF REQUEST[1] SINCE 1999-2000



[1] Valid requests received and files re-opened during the year.

TABLE 1

ORIGIN OF REQUESTS RECEIVED AND FILES RE-OPENED[1] IN 2003-2004

Region	Population		2003-2004	
	n	%	n	%
(01) Bas-Saint-Laurent	201,762	2.7	275	2.6
(02) Saguenay–Lac-Saint-Jean	281,675	3.8	282	2.7
(03) Capitale-Nationale	652,267	8.7	1,575	14.8
(04) Mauricie	259,934	3.5	505	4.8
(05) Estrie	292,866	3.9	389	3.7
(06) Montréal	1,853,489	24.9	3,258	30.6
(07) Outaouais	328,452	4.4	511	4.8
(08) Abitibi-Témiscamingue	148,522	2.0	170	1.6
(09) Côte-Nord	99,693	1.3	164	1.5
(10) Nord-du-Québec	39,656	0.5	16	0.2
(11) Gaspésie–Îles-de-la-Madeleine	98,906	1.3	155	1.4
(12) Chaudière-Appalaches	390,770	5.2	373	3.5
(13) Laval	359,627	4.8	287	2.7
(14) Lanaudière	404,986	5.4	354	3.3
(15) Laurentides	484,980	6.5	796	7.5
(16) Montérégie	1,335,265	17.9	1,154	10.8
(17) Centre-du-Québec	222,358	3.0	221	2.1
Extérieur du Québec	...	...	89	0.8
Inconnue	...	...	79	0.7
Total	7,455,208		10,653	

[1] Requests initially evaluated under competence. Requests received and files re-opened during the year.

[2] Source: Institut de la statistique du Québec. Population estimate. Population estimates for Québec's administrative regions in 2002.

GRAPHIQUE 1

EVOLUTION OF REQUEST[1] SINCE 1999-2000

[1] Valid requests received and files re-opened during the year.

TABLE 1

ORIGIN OF REQUESTS RECEIVED AND FILES RE-OPENED[1] IN 2003-2004

Region	n	%	n	%
	201 762	2.7	771	7.6
	284 079	3.8	268	2.7
	664 261	8.7	1 510	14.8
	1 393 033	18.5	488	4.8
	92 490	1.9	380	3.7
	1 864 881	24.8	3 098	30.6
	328 952	4.4	471	4.8
	149 513	2.0	163	1.6
	111 611	1.5	160	1.5
	34 000	0.5	20	0.2
	106 006	1.2	135	1.4
	261 170	3.2	347	3.5
	193 173	3.8	281	2.7
	304 000	3.4	334	3.3
	464 300	6.5	800	7.5
	1 430 200	17.9	3 162	30.8
	222 430	3.0	231	2.1
			59	0.8
			79	0.7
Total	7 456 206		10 653	

[1] Requests initially evaluated and / competency. Requests received and files re-opened during the year.

Source: Institut de la statistique du Québec. Population estimate. Population estimates by Québec's administrative regions in 2002.

TABLE 2

DEPARTMENTS AND AGENCIES MOST OFTEN TARGETED BY REQUESTS RECEIVED AND FILES RE-OPENED[1] IN 2003-2004[2]

	n
Ministère de la Sécurité publique	3,178
Ministère de l'Emploi, de la Solidarité sociale et de la Famille	1,744
Ministère du Revenu	1,119
Société de l'assurance automobile du Québec	1,022
Commission de la santé et de la sécurité du travail	855
Régie de l'assurance maladie du Québec	452
Ministère de l'Éducation	321
Régie des rentes du Québec	287
Curateur public	266
Régie du logement	205
Ministère des Relations avec les citoyens et de l'Immigration	156
Ministère de la Justice	136
Commission des lésions professionnelles	82
Tribunal administratif du Québec	65
Commission des normes du travail	62
Ministère de l'Environnement	58
Commission administrative des régimes de retraite et d'assurances	54
Ministère des Transports	53

[1] Requests initially evaluated under competence. Requests received and files re-opened during the year.

[2] Departments and agencies for which more than 50 total requests or file reviews were received in 2003-2004.

TABLE 3

INELIGIBLE REQUESTS BY SECTORS IN 2003-2004[1]

	n	%
Organismes gouvernementaux non assujettis à la compétence du Protecteur du citoyen	927	9.8
Réseau de l'éducation	148	1.6
Réseau de la santé et des services sociaux	813	8.5
Réseau municipal	429	4.5
Réseau des centres de la petite enfance	2	--
Ministères et organismes fédéraux et des autres provinces	734	7.7
Secteur privé	6,411	67.4
Autres	52	0.5
Total	9,516	

[1] Ineligible requests and final closure of ineligible files during the year.

TABLE 4

INFORMATION, REFERRALS, WITHDRAWALS, REJECTED AND SUSPENDED INTERVENTIONS IN 2003-2004[1]

	n	%
Demandes de renseignements	783	16.5
Demandes d'intervention référées	1,293	27.2
Demandes d'intervention retirées par le citoyen	269	5.7
Demandes d'intervention refusées et interventions interrompues	2,406	50.6
Total	4,751	

[1] Requests for the Protecteur du citoyen' interventions and final closure of files during the year.

TABLE 5

REQUESTS PROCESSED AND RE-CLOSURE OF FILES IN 2003-2004 BROKEN DOWN BY DEPARTMENTS AND AGENCIES

DEPARTMENTS AND AGENCIES	Unsubstantiated complaints	Substantiated complaints	Other requests	Total
Assemblée nationale	-	-	11	11
Conseil du trésor (Secrétariat du)	9	-	11	20
Ministère de l'Agriculture, des Pêcheries et de l'Alimentation	10	8	1	19
Ministère de l'Éducation	193	39	117	349
Ministère de l'Emploi, de la Solidarité sociale et de la Famille	770	108	884	1,762
Ministère de l'Environnement	15	11	41	67
Ministère de la Culture et des Communications	1	1	2	4
Ministère de la Justice	42	12	85	139
Ministère de la Santé et des Services sociaux	18	5	22	45
Ministère de la Sécurité publique	1,231	624	1,403	3,258
Ministère des Affaires municipales, du Sport et du Loisir	10	-	2	12
Ministère des Finances	2	-	12	14
Ministère des Relations avec les citoyens et de l'Immigration	30	39	46	115
Ministère des Ressources naturelles, de la Faune et des Parcs	14	3	28	45
Ministère des Transports	12	3	36	51
Ministère du Conseil exécutif	2	-	4	6
Ministère du Développement économique et régional et de la Recherche	1	4	2	7
Ministère du Revenu	520	189	452	1,161
Ministère du Travail	5	-	3	8
Bureau				
Bureau d'audiences publiques sur l'environnement	1	-	-	1
Coroner	2	2	5	9
Committee				
Comité de déontologie policière	-	-	2	2
Commissioners				
Commissaire à la déontologie policière	19	1	19	39
Protecteur des usagers en matière de santé et de services sociaux	2	-	2	4
Boards (Commissions)				
Commission administrative des régimes de retraite et d'assurances	22	20	10	52
Commission d'accès à l'information	15	2	28	45
Commission de l'équité salariale	1	-	-	1
Commission de la fonction publique	-	-	1	1
Commission de la santé et de la sécurité du travail	278	119	526	923
Commission de protection du territoire agricole	2	1	24	27
Commission des lésions professionnelles	-	2	75	83
Commission des normes du travail	22	5	38	65
Commission des relations de travail	2	-	4	6
Commission des transports du Québec	1	-	5	6
Commission des valeurs mobilières du Québec	7	2	7	16
Commission québécoise des libérations conditionnelles	12	2	14	28
Councils				
Conseil consultatif du travail et de la main-d'œuvre	1	-	-	1
Conseil de la magistrature	1	-	1	2
Conseil du statut de la femme	1	-	-	1
Institutions				
Curateur public	185	66	47	298
Inspecteur général des institutions financières	5	3	7	15
Institut de la statistique du Québec	-	-	2	2
Vérificateur général	-	-	1	1

TABLE 5

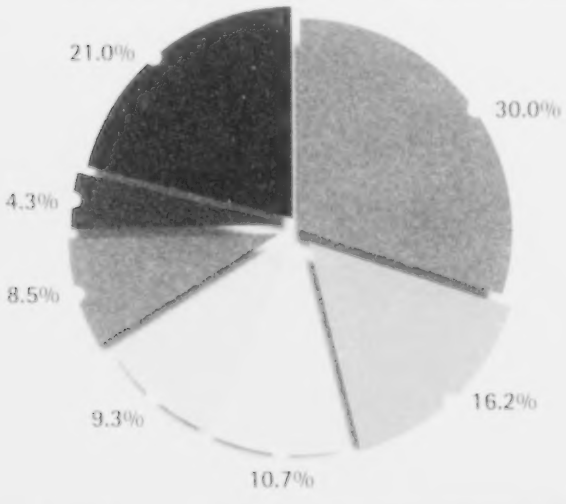
REQUESTS PROCESSED AND RE-CLOSURE OF FILES IN 2003-2004 BROKEN DOWN BY DEPARTMENTS AND AGENCIES

DEPARTMENTS AND AGENCIES	Unsubstantiated complaints	Substantiated complaints	Other requests	Total
Offices				
Office de la protection du consommateur	4	5	6	15
Office des personnes handicapées du Québec	–	–	2	2
Office des professions du Québec	3	1	1	5
Office québécois de la langue française	2	–	3	5
Board (Régies)				
Régie de l'assurance maladie du Québec	206	164	94	464
Régie des alcools, des courses et des jeux	3	2	4	9
Régie des marchés agricoles et alimentaires du Québec	–	–	1	1
Régie des rentes du Québec	138	16	132	286
Régie du bâtiment du Québec	7	3	8	18
Régie du cinéma	3	–	–	3
Régie du logement	47	41	115	203
Corporations				
La Financière agricole du Québec	1	–	–	1
Société d'habitation du Québec	16	–	18	34
Société de l'assurance automobile du Québec	450	239	324	1,013
Société de la faune et des parcs du Québec	4	1	11	16
Tribunals				
Tribunal administratif du Québec	11	2	52	65
Tribunal du travail	1	–	–	1
Other organism				
Fonds d'aide aux recours collectifs	1	–	–	1
Total	4,367	1,745	4,751	10,863

Requests for information, referred requests for interventions, intervention requests withdrawn by the citizen, rejected and suspended interventions.

REQUESTS PROCESSED IN 2003-2004[1] BROKEN DOWN BY PRINCIPAL DEPARTMENTS AND AGENCIES

GRAPHIQUE 2



Ministère de la Sécurité publique:	3,258 (30.0%)
Ministère de l'Emploi, de la Solidarité sociale et de la Famille:	1,762 (16.2%)
Ministère du Revenu:	1,161 (10.7%)
Société de l'assurance automobile du Québec:	1,013 (9.3%)
Commission de la santé et de la sécurité du travail:	923 (8.5%)
Régie de l'assurance maladie du Québec:	464 (4.3%)
Others:	2,282 (21.0%)
TOTAL:	10,863

[1] Requests for the Protecteur du citoyen' interventions and final closure of files during the year.

TABLE 6

SUBSTANTIATED COMPLAINTS IN 2003-2004[1]

DEPARTMENTS AND AGENCIES	Completed interventions n	Substantiated complaints n	Rate of substantiated complaints %
Ministère des Relations avec les citoyens et de l'Immigration	69	39	56.5
Commission administrative des régimes de retraite et d'assurances	42	20	47.6
Régie du logement	88	41	46.6
Régie de l'assurance maladie du Québec	370	164	44.3
Ministère de l'Environnement	26	11	42.3
Société de l'assurance automobile du Québec	689	239	34.7
Ministère de la Sécurité publique	1,915	624	32.6
Commission de la santé et de la sécurité du travail	397	119	30.0
Ministère du Revenu	709	189	26.7
Curateur public	251	66	26.3
Ministère de la Justice	54	12	22.2
Ministère de la Santé et des Services sociaux	23	5	21.7
Commission des normes du travail	27	5	18.5
Ministère de l'Éducation	232	39	16.8
Ministère de l'Emploi, de la Solidarité sociale et de la Famille	878	108	12.3
Régie des rentes du Québec	154	16	10.4

[1] Departments and agencies with more than 20 total interventions and final file closures in 2003-2004.

TABLE 7

CAUSES OF INJURY IN 2003-2004[1]

	n	%
Acte illégal (lois et règlements)	293	16.8
Acte non conforme (directives, politiques, déclaration de services aux citoyens)	629	36.0
Acte déraisonnable	741	42.5
Erreur de fait	82	4.7
Total	1,745	

[1] Requests for the Protecteur du citoyen interventions and final closure of files during the year.

FIGURE 3

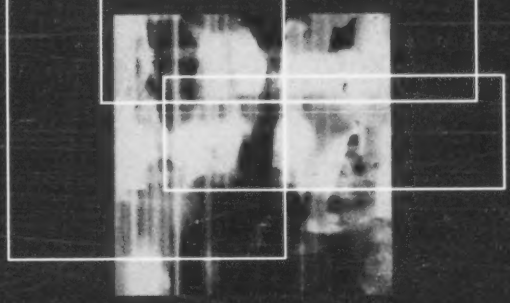
REQUEST PROCESSED AND FINAL CLOSURE OF FILES IN 2003-2004: RESULTS

As Protectrice du citoyen, I hereby confirm, at the best of my knowledge, that the administrative data included here in are correct.

The protectrice du citoyen,

Pauline Champoux-Lesage

For the CITIZEN: building on COMMON SENSE



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